

Utah Insurance Department
2019 Legislative Session
Department's proposed amendments and statement of their nature

Technical change: Formatting, numbering, word order or language changes only

Codifies practice: Changed language but no change in practice

Policy Change: New language and new practice

Lines	Amendment text	Nature of change
	<p>31A-1-301. Definitions As used in this title, unless otherwise specified:</p> <p>[Sub-Sections requiring renumbering only are not included to save space.]</p> <p><u>(33) "Corporate Governance Annual Disclosure" means a confidential report filed by the insurer or insurance group made in accordance with the requirements of chapter 16b of this title.</u></p> <p><u>(76) "Group wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the commissioner under Section 31A-16-108 to have sufficient significant contacts with the internationally active insurance group.</u></p> <p><u>(96) "Insurance group" means those insurers and affiliates included within an insurance holding company system.</u></p> <p>(97)<u>100</u>(a) "Insurer" means a person doing an insurance business as a principal including:</p> <p>(i) a fraternal benefit society;</p>	<p>Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC Model #440, Holding Company Model amendments)</p> <p>Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC Model #440, Holding Company Model amendments)</p>

<p>(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);</p> <p>(iii) a motor club;</p> <p>(iv) an employee welfare plan;</p> <p>(v) a person purporting or intending to do an insurance business as a principal on that person's own account; and</p> <p>(vi) a health maintenance organization.</p> <p>(b) "Insurer" does not include a governmental entity to the extent the governmental entity is engaged in an activity described in Section 31A-12-107, <u>an agency, authority, or instrumentality of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.</u></p> <p><u>(102) "Internationally active insurance group" means an insurance holding company system that</u></p> <p><u>(a) includes an insurer registered under Section 31A-16-105; and</u></p> <p><u>(b) meets the following criteria:</u></p> <p><u>(i) premiums written in at least three countries,</u></p> <p><u>(ii) the percentage of gross premiums written outside the United States is at least ten percent (10%) of the insurance holding company system's total gross written premiums; and</u></p> <p><u>(iii) based on a three-year rolling average, the total assets of the insurance holding company system are:</u></p> <p><u>(A) at least fifty billion dollars (\$50,000,000,000); or</u></p> <p><u>(B) the total gross written premiums of the insurance holding company system are at least ten billion dollars (\$10,000,000,000).</u></p>	<p>Technical change: Specifies what is deemed a governmental entity.</p> <p>Policy change: Necessary for Utah's accreditation by National Association of Insurance Commissioners. See above.</p>
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	<p><u>(132) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.</u></p> <p><u>(133) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.</u></p> <p><u>(135) "Own risk and solvency assessment" means a confidential internal assessment:</u></p> <p><u>(a) appropriate to the nature, scale, and complexity of an insurer or insurance group,</u></p> <p><u>(b) conducted by that insurer or insurance group; of</u></p> <p><u>(i) the material and relevant risks associated with the insurer; and</u></p> <p><u>(ii) the insurance group's current business plan and the sufficiency of capital resources to support those risks.</u></p> <p><u>(165?) "Short-term limited duration insurance" means a health benefit product that:</u></p> <p><u>(a) after taking in to account renewals or extensions, has a duration of no longer than 36 months in total; and</u></p> <p><u>(b) has an expiration date specified in the contract that is less than 12 months after the date the original effective date of the contract.</u></p>	<p>Policy change: Necessary for Utah's accreditation by National Association of Insurance Commissioners. See above.</p> <p>Policy change: Necessary for Utah's accreditation by National Association of Insurance Commissioners. See above.</p> <p>Policy change: Necessary for Utah's accreditation by National Association of Insurance Commissioners. See above.</p>
Lines	Amendment text	Nature of change
	<p>31A-2-403</p> <p>(6)(a) The commission shall meet at least monthly. Notwithstanding Section 52-4-207, <u>at least one monthly meeting per calendar quarter shall be designated as a meeting that the</u> a <u>commission members shall physically attend a regularly scheduled monthly meeting of the</u> commission and may not attend through electronic means. A Commission</p>	<p>Policy change: The Title and Escrow Commission may meet less than monthly if its workload permits.</p>

	<p>members may attend all other regularly scheduled meetings, subcommittee meetings, emergency meetings, or other not regularly scheduled meetings electronically in accordance with Section 52-4-207.</p> <p><u>(b) Except for the one monthly meeting per calendar quarter that requires physical attendance of the commission members as set forth in subsection (a), the commissioner may, with the concurrence of the chair of the commission, cancel a monthly meeting if, due to the number or nature of pending title insurance matters, the monthly meeting is not necessary.</u></p> <p>(b) The commissioner may call additional meetings:</p> <p>(i) at the commissioner's discretion;</p> <p>(ii) upon the request of the chair of the commission; or</p> <p>(iii) upon the written request of three or more commission members.</p> <p>(e)</p> <p>(i) Three commission members constitute a quorum for the transaction of business.</p> <p>(ii) The action of a majority of the commission members when a quorum is present is the action of the commission.</p>	
Lines	Amendment text	Nature of change
	<p><u>31A-16-108 Supervision of Internationally Active Insurance Groups</u></p> <p><u>(1) The commissioner is authorized to:</u></p> <p><u>(a) act as the group-wide supervisor for any internationally active insurance group in accordance with the provisions of this section; or</u></p> <p><u>(b) the commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:</u></p> <p><u>(i) does not have substantial insurance operations in the United States;</u></p> <p><u>(ii) has substantial insurance operations in the United States, but not in this state; or</u></p> <p><u>(iii) has substantial insurance operations in the United States and this state, but the commissioner has determined pursuant to the factors set</u></p>	<p>Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC Model #440, Holding Company Model amendments)</p>

	<p><u>forth in Subsections (2) and (6) that the other regulatory official is the appropriate group-wide supervisor.</u></p> <p><u>(c) An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the commissioner make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.</u></p> <p><u>(2) In cooperation with other state, federal and international regulatory agencies, the commissioner will:</u></p> <p><u>(a) identify a single group-wide supervisor for an internationally active insurance group:</u></p> <p><u>(i) by determining that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state; or</u></p> <p><u>(ii) by acknowledging that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group.</u></p> <p><u>(b) The commissioner shall consider the following factors when making a determination or acknowledgment under this subsection:</u></p> <p><u>(i) the place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets or liabilities;</u></p> <p><u>(ii) the place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group;</u></p> <p><u>(iii) the location of the executive offices or largest operational offices of the internationally active insurance group;</u></p> <p><u>(iv) whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the commissioner determines to be:</u></p> <p><u>(A) Substantially similar to the system of regulation provided under the laws of this state, or</u></p>	
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	<p><u>(B) otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and</u></p> <p><u>(v) whether another regulatory official acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.</u></p> <p><u>(c) A commissioner identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall:</u></p> <p><u>(i) be made after consideration of the factors listed in Subsections (i) through (v) above;</u></p> <p><u>(ii) shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group; and</u></p> <p><u>(iii) in consultation with the internationally active insurance group.</u></p> <p><u>(3) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall: (a)</u></p> <p><u>acknowledge that regulatory official as the group-wide supervisor;</u></p> <p><u>(b) in the event of a material change in the internationally active insurance group that results in:</u></p> <p><u>(i) the internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets or liabilities; or</u></p> <p><u>(ii) this state being the place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group; and</u></p> <p><u>(c) make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to Subsection (2).</u></p>	
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	<p><u>(4) Pursuant to Section 31A-16-107.5, the commissioner is authorized to collect from any insurer registered pursuant to Section 31A-16-105 all information necessary to determine whether the commissioner:</u></p> <p><u>(a) may act as the group-wide supervisor of an internationally active insurance group; or</u></p> <p><u>(b) may acknowledge another regulatory official to act as the group-wide supervisor.</u></p> <p><u>(c) Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the commissioner, the commissioner shall notify:</u></p> <p><u>(i) the insurer registered pursuant to Section 31A-16-105; and</u></p> <p><u>(ii) the ultimate controlling person within the internationally active insurance group.</u></p> <p><u>(d) The internationally active insurance group shall have not less than 30 days to provide the commissioner with additional information pertinent to the pending determination.</u></p> <p><u>(e) The commissioner shall publish on the department's internet website the identity of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.</u></p> <p><u>(5) If the commissioner is the group-wide supervisor for an internationally active insurance group, the commissioner is authorized to engage in any of the following group-wide supervision activities:</u></p> <p><u>(a) assess the enterprise risks within the internationally active insurance group to ensure that:</u></p> <p><u>(i) the material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by</u></p> <p><u>Management; and</u></p> <p><u>(ii) reasonable and effective mitigation measures are in place;</u></p>	
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	<p><u>(b) request, from any member of an internationally active insurance group subject to the commissioner’s supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the internationally active insurance group regarding:</u></p> <p><u>(i) governance, risk assessment and management,</u></p> <p><u>(ii) capital adequacy; and</u></p> <p><u>(iii) material intercompany transactions;</u></p> <p><u>(c) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of such internationally active insurance group that are engaged in the business of insurance;</u></p> <p><u>(d) communicate with other state, federal and international regulatory agencies for members within the internationally active insurance group; and</u></p> <p><u>(e) share relevant information subject to the confidentiality provisions of Section 31A-16-109, through supervisory colleges as set forth in Section 31A-16-108.5 or otherwise;</u></p> <p><u>(i) enter into agreements with or obtain documentation from any insurer registered under 31A-16-105;</u></p> <p><u>(ii) any member of the internationally active insurance group; and</u></p> <p><u>(iii) any other state, federal and international regulatory agencies for members of the internationally active insurance group providing the basis for or otherwise clarifying the commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials.</u></p> <p><u>(iv) Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding</u></p>	
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	<p><u>company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state; and</u></p> <p><u>(f) other group-wide supervision activities, consistent with the authorities and purposes enumerated in this section, as considered necessary by the commissioner.</u></p> <p><u>(6) If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that:</u></p> <p><u>(a) the commissioner's cooperation is in compliance with the laws of this state; and</u></p> <p><u>(b) the regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable.</u></p> <p><u>(c) Where such recognition and cooperation is not reasonably reciprocal, the commissioner is authorized to refuse recognition and cooperation.</u></p> <p><u>(7) The commissioner is authorized to enter into agreements with or obtain documentation from:</u></p> <p><u>(a) any insurer registered under Section 31A-16-105,</u></p> <p><u>(b) any affiliate of the insurer; and</u></p> <p><u>(c) other state, federal and international regulatory agencies for members of the internationally active insurance group, that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.</u></p> <p><u>(8) The commissioner may promulgate regulations necessary for the administration of this section.</u></p>	
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	(9) <u>A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries and any other professionals and all reasonable travel expenses.</u>	
Lines	Amendment text	Nature of change
	<p>31A-16-109</p> <p>(1) Information, documents, and copies of these that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made under Section 31A-16-107.5, and all information reported <u>or provided to the department</u> under Section 31A-16-105 <u>and section 31A-16-108</u> is confidential. It is not subject to subpoena and may not be made public by the commissioner or any other person without the permission of the insurer, except it may be provided to the insurance departments of other states, without the prior written consent of the insurer to which it pertains.</p> <p>(2) The commissioner and any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom the documents, materials, or other information are shared pursuant to this chapter shall keep confidential any confidential documents, materials, or information subject to Subsection (1).</p> <p>(3)</p> <p>(a) To assist in the performance of the commissioner's duties, the commissioner:</p> <p>(i) may share documents, materials, or other information, including the confidential documents, materials, or information subject to Subsection (1), with the following if the recipient agrees in writing to maintain the confidentiality status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality:</p>	<p>Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC Model #440, Holding Company Model amendments)</p>

	<p>(A) other state, federal, and international regulatory agencies;</p> <p>(B) the National Association of Insurance Commissioners and its affiliates and subsidiaries; and</p> <p>(C) state, federal, and international law enforcement authorities, including members of a supervisory college described in Section 31A-16-108.5;</p> <p>(ii) notwithstanding Subsection (1), may only share confidential documents, material, or information reported pursuant to Section 31A-16-105 with commissioners of states having statutes or regulations substantially similar to Subsection (1) and who have agreed in writing not to disclose the documents, material, or information;</p> <p>(iii) may receive documents, materials, or information, including otherwise confidential documents, materials, or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential any document, material, or information received with notice or the understanding that it is confidential under the laws of the jurisdiction that is the source of the document, material, or information; and</p> <p>(iv) shall enter into written agreements with the National Association of Insurance Commissioners governing sharing and use of information provided pursuant to this chapter consistent with this Subsection (3) that shall:</p> <p>(A) specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal, or international regulators;</p> <p>(B) specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries</p>	
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	<p>pursuant to this chapter remains with the commissioner and the National Association of Insurance Commissioner's use of the information is subject to the direction of the commissioner;</p> <p>(C) require prompt notice to be given to an insurer whose confidential information in the possession of the National Association of Insurance Commissioners pursuant to this chapter is subject to a request or subpoena to the National Association of Insurance Commissioners for disclosure or production; and</p> <p>(D) require the National Association of Insurance Commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this chapter.</p> <p>(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.</p> <p>(5) A waiver of any applicable claim of confidentiality in the documents, materials, or information does not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection (3).</p> <p>(6) Documents, materials, or other information in the possession or control of the National Association of Insurance Commissioners pursuant to this chapter are:</p> <p>(a) confidential, not public records, and not open to public inspection; and</p> <p>(b) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.</p>	
Line	Amendment text	Nature of change

	<p>31A-16a-102</p> <p>(1) "Insurance group," for the purpose of conducting an own risk and solvency assessment, means those insurers and affiliates included within an insurance holding company system as defined in Section 31A-1-301.</p> <p>(2) "Insurer" means the same as that term is defined in Section 31A-1-301, except that it does not include agency, authority, or instrumentality of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.</p> <p>(3) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.</p> <p>(4) "ORSA summary report" means a confidential high level summary of an insurer or insurance group's own risk and solvency assessment.</p> <p>(5) "Own risk and solvency assessment" means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by that insurer or insurance group, of the material and relevant risks associated with the insurer or insurance group's current business plan and the sufficiency of capital resources to support those risks.</p>	<p>Technical change: Definitions in this section have been moved to 31A-1-301.</p>
Line	Amendment text	Nature of change
	<p><u>Chapter 16b CORPORATE GOVERNANCE ANNUAL DISCLOSURE ACT</u></p> <p><u>Section</u></p> <p><u>31A-16b-101. Purpose and Scope</u></p> <p><u>31A-16b-102. Disclosure Requirement</u></p> <p><u>31A-16b-103. Rules and Regulations</u></p> <p><u>31A-16b-104. Contents of Corporate Governance Annual Disclosure</u></p> <p><u>31A-16b-105. Confidentiality</u></p>	<p>Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for corporate governance disclosures. Adoption no later than 1/1/20 will be needed for accreditation by the NAIC. (NAIC Model #305,</p>

<p> <u>31A-16b-106. Third-party Consultants</u> <u>31A-16b-107. Sanctions Section</u> <u>31A-16b-108. Severability Clause Section</u> <u>31A-16b-109. Effective Date</u> </p> <p> <u>31A-16b-101. Purpose and scope.</u> (1) <u>The purpose of this Act is to:</u> (a) <u>provide the commissioner a summary of an insurer or insurance group's corporate governance structure, policies and practices to permit the commissioner to gain and maintain an understanding of the insurer's corporate governance framework.</u> (b) <u>outline the requirements for completing a corporate governance annual disclosure with the commissioner.</u> (c) <u>provide for the confidential treatment of the corporate governance annual disclosure and related information that will contain confidential and sensitive information related to an insurer or insurance group's internal operations and proprietary and trade secret information which, if made public, could potentially cause the insurer or insurance group competitive harm or disadvantage.</u> (2) <u>Nothing in this act shall be construed to prescribe or impose corporate governance standards and internal procedures beyond that which is required under applicable state corporate law.</u> (3) <u>Notwithstanding Subsection (2), nothing in this act shall be construed to limit the commissioner's authority, or the rights or obligations of third parties, under Chapter 2 of this title.</u> (4) <u>The requirements of this Act shall apply to all insurers domiciled in this state.</u> </p> <p> <u>31A-16b-102. Disclosure requirement.</u> (1) <u>An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the</u> </p>	<p>Corporate Governance Annual Disclosure Model Act)</p>
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	<p><u>commissioner a corporate governance annual disclosure that contains the information described in Subsection 31A-16b-104(2).</u></p> <p><u>(2) Notwithstanding any request from the commissioner made pursuant to Subsection (4), if the insurer is a member of an insurance group, the insurer shall submit the report required by this Section to the commissioner of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC.</u></p> <p><u>(3) The corporate governance annual disclosure must:</u></p> <p><u>(a) include a signature of the insurer or insurance group's chief executive officer or corporate secretary;</u></p> <p><u>(b) attesting to the best of that individual's belief and knowledge that:</u></p> <p><u>(i) the insurer has implemented the corporate governance practices;</u> <u>and</u></p> <p><u>(ii) a copy of the disclosure has been provided to the insurer's board of directors or the appropriate committee thereof.</u></p> <p><u>(4) An insurer not required to submit a corporate governance annual disclosure under this section shall do so upon the commissioner's request.</u></p> <p><u>(5) For purposes of completing the corporate governance annual disclosure, the insurer or insurance group may provide information regarding corporate governance at the:</u></p> <p><u>(a) ultimate controlling parent level,</u></p> <p><u>(b) an intermediate holding company level; and/or</u></p> <p><u>(c) the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance.</u></p> <p><u>(6) The insurer or insurance group is encouraged to make the corporate governance annual disclosures at the level at which: (a) the insurer's or insurance group's risk appetite is determined;</u></p> <p><u>(b) the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised; or</u></p>	
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	<p><u>(c) the level at which legal liability for failure of general corporate governance duties would be placed.</u></p> <p><u>(7) If the insurer or insurance group determines the level of reporting based on the criteria in Subsection (6), it shall indicate:</u></p> <p><u>(a) which of the three criteria was used to determine the level of reporting; and</u></p> <p><u>(b) explain any subsequent changes in the level of reporting.</u></p> <p><u>(8) The review of the corporate governance annual disclosure and any additional requests for information shall be made through the lead state as determined by the procedures within the most recent Financial Analysis Handbook referenced in Subsection (2).</u></p> <p><u>(9) Insurers providing information substantially similar to the information required by this chapter in other documents provided to the Commissioner; including proxy statements filed in conjunction with Section 31A-16-105 or other state or federal filings provided to this department, shall not be required to duplicate that information in the corporate governance annual disclosure, but shall only be required to cross reference the document in which the information is included.</u></p> <p><u>31A-16b-103 Rules and orders.</u></p> <p><u>In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules as necessary to carry out this chapter. The commissioner may issue orders as is necessary to carry out this chapter.</u></p> <p><u>31A-16b-104 Contents of corporate governance annual disclosure.</u></p> <p><u>(1) The insurer or insurance group shall have discretion over the responses to the corporate governance annual disclosure inquiries, provided the disclosure shall contain the material information necessary to permit the commissioner to gain an understanding of the insurer's or group's corporate governance structure, policies, and practices.</u></p>	
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	<p><u>(2) The commissioner may request additional information that he or she deems material and necessary to provide the commissioner with a clear understanding of:</u></p> <p><u>(a) the corporate governance policies;</u></p> <p><u>(b) the reporting or information system; and</u></p> <p><u>(c) controls implementing those policies.</u></p> <p><u>(3) The corporate governance annual disclosure shall be prepared consistent with the rules promulgated under the authority of Section 31A-16b-103.</u></p> <p><u>(4) Documentation and supporting information shall be maintained and made available upon examination or upon request of the commissioner.</u></p> <p><u>31A-16b-105 Confidentiality.</u></p> <p><u>(1) Documents, materials or other information including the corporate governance annual disclosure, in the possession or control of the department that are obtained by, created by or disclosed to the commissioner or any other person under this chapter, are recognized by this state as being proprietary and to contain trade secrets.</u></p> <p><u>(2) All documents, materials or other information shall be confidential by law and privileged, shall not be:</u></p> <p><u>(a) subject to Title 63G, Chapter 2, Government Records and Management Act.</u></p> <p><u>(b) subject to subpoena,</u></p> <p><u>(c) subject to discovery or admissible in evidence in any private civil action.</u></p> <p><u>(3) The commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.</u></p>	
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	<p><u>(4) The Commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer.</u></p> <p><u>(5) Nothing in this section shall be construed to require written consent of the insurer before the commissioner may share or receive confidential documents, materials or other corporate governance annual disclosure related information pursuant to Subsection (7) below to assist in the performance of the commissioner's regular duties.</u></p> <p><u>(6) Neither the commissioner nor any person who received documents, materials or other corporate governance annual disclosure related information, through examination or otherwise, while acting under the authority of the commissioner, or with whom such documents, materials or other information are shared pursuant to this chapter shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to Subsection (1).</u></p> <p><u>(7) In order to assist in the performance of the commissioner's regulatory duties, the commissioner may:</u></p> <p><u>(a) upon request, share documents, materials or other corporate governance annual disclosure related information including the confidential and privileged documents, materials or information subject to Subsection (1), including proprietary and trade secret documents and materials with:</u></p> <p><u>(i) other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in Section 31A-16-108.5</u></p> <p><u>(ii) the NAIC; and</u></p> <p><u>(iii) third party consultants pursuant to Section 31A-16b-106, provided that the recipient agrees in writing to:</u></p> <p><u>(A) maintain the confidentiality and privileged status of the disclosure related documents, material or other information; and</u></p>	
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	<p><u>(B) has verified in writing the legal authority to maintain confidentiality;</u></p> <p><u>(b) receive documents, materials or other corporate governance annual disclosure related information, including:</u></p> <p><u>(i) otherwise confidential and privileged documents, materials or information; and</u></p> <p><u>(ii) proprietary and trade-secret information or documents; from</u></p> <p><u>(A) regulatory officials of other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in Section 31A-16-108.5; and</u></p> <p><u>(B) the NAIC.</u></p> <p><u>(9) The commissioner shall maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.</u></p> <p><u>(10) The sharing of information and documents by the commissioner pursuant to this chapter shall not constitute a delegation of regulatory authority or rulemaking.</u></p> <p><u>(11) The commissioner is solely responsible for the administration, execution and enforcement of the provisions of this chapter.</u></p> <p><u>(12) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials or other corporate governance annual disclosure related information shall occur as a result of disclosure of such information or documents to the commissioner under this section or as a result of sharing as authorized in this chapter.</u></p> <p><u>31A-16b-106 NAIC and Third-party Consultants.</u></p> <p><u>(1) The commissioner may retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the corporate</u></p>	
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	<p><u>governance annual disclosure and related information or the insurer's compliance with this chapter.</u></p> <p><u>(2) Any persons retained under Subsection (1) shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.</u></p> <p><u>(3) The NAIC and third-party consultants shall be subject to the same confidentiality standards and requirements as the commissioner.</u></p> <p><u>(4) As part of the retention process, a third-party consultant shall verify to the commissioner, with notice to the insurer, that it is free of a conflict of interest and that it has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this chapter.</u></p> <p><u>(5) A written agreement with the NAIC and/or a third-party consultant governing sharing and use of information provided pursuant to this chapter shall contain the following provisions and expressly require the written consent of the insurer prior to making public information provided under this chapter:</u></p> <p><u>(a) specific procedures and protocols for maintaining the confidentiality and security of corporate governance annual disclosure related information shared with the NAIC or a third-party consultant pursuant to this chapter;</u></p> <p><u>(b) procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurers;</u></p> <p><u>(c) provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the corporate governance annual disclosure related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;</u></p> <p><u>(d) a provision specifying that ownership of the corporate governance annual disclosure related information shared with the NAIC or a third-party consultant remains with the department and the NAIC's or third-</u></p>	
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	<p><u>party consultant's use of the information is subject to the direction of the commissioner;</u></p> <p><u>(e) a provision that prohibits the NAIC or a third-party consultant from storing the information shared pursuant to this chapter in a permanent database after the underlying analysis is completed;</u></p> <p><u>(f) a provision requiring the NAIC or third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's corporate governance annual disclosure related information; and</u></p> <p><u>(g) a requirement that the NAIC or a third-party consultant consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this chapter.</u></p> <p><u>31A-16b-107 Sanctions.</u></p> <p><u>(1) Any insurer failing, without just cause, to timely file the corporate governance annual disclosure as required in this chapter shall be required, after notice and hearing, to pay a penalty of \$10,000 for each day's delay.</u></p> <p><u>(2) Any penalty recovered by the commissioner shall be paid into the general fund of this state.</u></p> <p><u>(3) The maximum penalty under this section is \$300,000.</u></p> <p><u>(4) The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.</u></p>	
Lines	Amendment text	Nature of change
	<p>31A-17-519</p> <p>(1) A company that is licensed and doing business in Utah, and whose reserves are computed subject to the requirements of Subsection 31A-17-</p>	

<p>502(2), <u>in lieu of the reserves required by Sections 31A-17-514 and 31A-17-515,</u> may hold reserves for <u>ordinary</u> life insurance policies <u>issued directly, or assumed, during the current calendar year,</u> based on the mortality tables and interest rates defined by the valuation manual for net premium reserves and using the methodology defined in Sections 31A-17-507 through 31A-17-512 as they apply to ordinary life insurance in lieu of the reserves required by Sections 31A-17-514 and 31A-17-515, provided that all of the following conditions have been met:</p> <ul style="list-style-type: none"> (a) the company has less than \$300,000,000 of ordinary life premium; (b) if the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than \$600,000,000; (c) the company reported total adjusted capital of at least 450% of Authorized Control Level Risk Based Capital in the risk based capital report for the prior calendar year; (d) the appointed actuary has provided an unqualified opinion on the reserves in accordance with Subsection 31A-17-503(2) for the prior calendar year; (ed) <u>the company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee issued on or after the operative date of the valuation manual January 1, 2020 and in force on the company's annual financial statement for the current calendar year-end valuation date, only has secondary guarantees that</u> meets the definition of a non-material secondary guarantee universal life product as defined in the valuation manual; (fe) the company has filed by July 1 of the calendar year for which valuation under Subsection 31A-17-502(2) is required a statement with its domiciliary commissioner certifying that these conditions are met and that the company intends to calculate reserves as described in this section; and (gf) the company's domiciliary commissioner has not informed the company in writing before September 1 of the calendar year for which 	<p>Policy change: Clarifies that the exemption applies to any policy so long as that policy is issued in a year in which the company qualifies for the exemption. Brings the statute in line with the updated NAIC Valuation Manual.</p> <p>Policy change: Removes the RBC requirement as a condition for exemption.</p> <p>Technical change: Clarifies that this requirement applies to policies that remain in force.</p>
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	<p>valuation under Subsection 31A-17-502(2) is required that the company must comply with the valuation manual requirements for life insurance reserves.</p> <p>(2) For purposes of Subsections (1)(a) and (b), ordinary life premiums are measured as direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year annual statement, <u>excluding premiums for guaranteed issue policies and pre-need life contracts and excluding amounts that represent the transfer of reserves in-force as of the effective date of a reinsurance assumed transaction.</u></p>	<p>Technical change: Excludes premium for pre-need and guaranteed issue policies. NAIC Valuation Manual does not consider transferred reserves in determining life premium.</p>
Lines	Amendment text	Nature of change
	<p>31A-21-201</p> <p>(3)(a) The commissioner may prohibit the use of a form at any time upon a finding that:</p> <ul style="list-style-type: none"> (i) the form: <ul style="list-style-type: none"> (A) is inequitable; (B) is unfairly discriminatory; (C) is misleading; (D) is deceptive; (E) is obscure; (F) is unfair; (G) encourages misrepresentation; or (H) is not in the public interest; (ii) the form provides benefits or contains another provision that endangers the solidity of the insurer; (iii) except an application required by Section 31A-22-635, the form is an insurance policy or application for an insurance policy that fails to conspicuously, as defined by rule, provide: <ul style="list-style-type: none"> (A) the exact name of the insurer; 	<p>Codifies practice: Requires an endorsement to a policy to provide the name and domicile of the insurer.</p>

	<p>(B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy; and</p> <p>(C) for a life insurance and annuity insurance policy only, the address of the administrative office of the insurer filing the insurance policy or application for the insurance policy;</p> <p>(iv) the form violates a statute or a rule adopted by the commissioner; or</p> <p>(v) the form is otherwise contrary to law.</p> <p>(b) Subsection (3)(a)(iii) does not apply to an endorsement to an insurance policy.</p> <p>(e)(i) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days after the order, the use of the form be discontinued.</p> <p>(ii) Once use of a form is prohibited, the form may not be used until appropriate changes are filed with and reviewed by the commissioner.</p> <p>(iii) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the existing policyholders.</p> <p>(d)<u>(c)</u> If the commissioner prohibits use of a form under this Subsection (3), the prohibition shall:</p> <p>(i) be in writing;</p> <p>(ii) constitute an order; and</p> <p>(iii) state the reasons for the prohibition.</p>	
Lines	Amendment text	Nature of change
	<p>31A-21-311</p> <p>(1)(a)(i) An insurer issuing an individual or group life insurance policy or accident and health insurance policy, shall as soon as practicable deliver the policy to the policyholder, but no later than 90 days after the effective date.</p> <p>(b) The policy required by this Subsection (1) shall:</p> <p>(A) provide the exact name of the insurer;</p>	<p>Policy change: This change requires an insurer to deliver a policy or certificate for an accident and health insurance policy or a life insurance policy within 90 days of the effective date. While the Insurance Code has numerous references "delivery of the policy", it currently does</p>

	<p>(B) state the state of domicile of the insurer.</p> <p>(2)(a) Except under Subsection (13)(d), an insurer issuing a group insurance policy, other than a blanket insurance policy, shall, as soon as practicable after the coverage is effective, but no later than 90 days after the participant's coverage is effective, provide a certificate for each member of the insured group, except that only one certificate need be provided for the members of a family unit.</p> <p>(iib) The certificate required by this Subsection (12) shall:</p> <p>(Aii) provide the exact name of the insurer;</p> <p>(Bii) state the state of domicile of the insurer; and</p> <p>(Ciii) contain a summary of the essential features of the insurance coverage, including:</p> <p>(IA) any rights of conversion to an individual policy;</p> <p>(IIB) in the case of group life insurance, any continuation of coverage during total disability; and</p> <p>(IIIC) in the case of group life insurance, the incontestability provision.</p> <p>(iiic) Upon receiving a written request, the insurer shall inform any insured how the insured may inspect, during normal business hours at a place reasonably convenient to the insured:</p> <p>(Ai) a copy of the policy; or</p> <p>(Bii) a summary of the policy containing all the details that are relevant to the certificate holder.</p> <p>(bd) The commissioner may by rule impose a requirement similar to Subsection (1)(a) on any class of blanket insurance policies for which the commissioner finds that the group of persons covered is constant enough for that type of action to be practicable and not unreasonably expensive.</p> <p>(ce)(i) A certificate shall be provided in a manner reasonably calculated to bring the certificate to the attention of the certificate holder.</p> <p>(iif)(i) The insurer may deliver or mail a certificate:</p> <p>(A) directly to the certificate holders; or</p>	<p>not provide a timeline in which such policy must be delivered.</p>
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	<p>(B) in bulk to the policyholder to transmit to certificate holders.</p> <p>(iii) An affidavit by the insurer that the insurer mailed the certificates in the usual course of business creates a rebuttable presumption that the insurer has mailed the certificate to:</p> <p>(A) a certificate holder; or</p> <p>(B) a policyholder as provided in Subsection (1)(c)(ii)(B).</p> <p>(dg) The commissioner may by rule or order prescribe substitutes for delivery or mailing of certificates that are reasonably calculated to inform a certificate holder of the certificate holder's rights, including:</p> <p>(i) booklets describing the coverage;</p> <p>(ii) the posting of notices in the place of business; or</p> <p>(iii) publication in a house organ.</p> <p>(3) Unless a policy, certificate or an authorized substitute has been made available to the policyholder or certificate holder when required by this section, an act or omission forbidden to or required of the policyholder or certificate holder by the policy or certificate after the coverage has become effective as to the policyholder or certificate holder, other than intentionally causing the loss insured against or failing to make required contributory premium payments, may not affect the insurer's obligations under the insurance contract.</p>	
Lines	Amendment text	Nature of change
	<p>31A-21-313</p> <p>(1)(a) An action on a written policy or contract of first party insurance shall be commenced within three years after the inception of the loss.</p> <p>(b) The inception of the loss on a fidelity bond is the date the insurer first denies all or part of a claim made under the fidelity bond.</p> <p>(2) Except as provided in Subsection (1) or elsewhere in this title, the law applicable to limitation of actions in Title 78B, Chapter 2, Statutes of Limitations, applies to actions on insurance policies.</p> <p>(3) An insurance policy may not:</p>	<p>Codifies practice: Allows for an action to be brought against an insurer after denial of payment, rather denial of full payment.</p>

	<p>(a) limit the time for beginning an action on the policy to a time less than that authorized by statute;</p> <p>(b) prescribe in what court an action may be brought on the policy; or</p> <p>(c) provide that no action may be brought, subject to permissible arbitration provisions in contracts.</p> <p>(4) Unless by verified complaint it is alleged that prejudice to the complainant will arise from a delay in bringing suit against an insurer, which prejudice is other than the delay itself, no action may be brought against an insurer on an insurance policy to compel payment under the policy until the earlier of:</p> <p>(a) 60 days after proof of loss has been furnished as required under the policy;</p> <p>(b) waiver by the insurer of proof of loss; or</p> <p>(c) the insurer's denial of full payment.</p> <p>(5) The period of limitation is tolled during the period in which the parties conduct an appraisal or arbitration procedure prescribed by the insurance policy, by law, or as agreed to by the parties.</p>	
Lines	Amendment text	Nature of change
	<p>31A-22-501</p> <p>A group or blanket policy of life insurance may not be delivered in Utah unless the insured group:</p> <p>(1) falls within at least one of the classifications under Sections 31A-22-501.1 through 31A-22-509; and</p> <p>(2) <u>is formed for a reason other than the purchase of insurance and maintained in good faith for purposes other than obtaining insurance.</u></p>	<p>Technical change: Revises terminology for consistency with references related to accident and health insurance, 31A-22-701(1)(b) and (2)(a).</p>
Lines	Amendment text	Nature of change
	<p>31A-22-605.1</p> <p>(1) Any provision dealing with preexisting conditions shall be consistent with this section, Section 31A-22-609, and rules adopted by the commissioner.</p>	

	<p>(2) Except as provided in this section, an insurer that elects to use an application form without questions concerning the insured's health or medical treatment history shall provide coverage under the policy for any loss which occurs more than 12 months after the effective date of coverage due to a preexisting condition which is not specifically excluded from coverage.</p> <p>(3)(a) An insurer that issues a specified disease policy may not deny a claim for loss due to a preexisting condition that occurs more than six months after the effective date of coverage.</p> <p>(b) A specified disease policy may impose a preexisting condition exclusion only if the exclusion relates to a preexisting condition which first manifested itself within six months prior to the effective date of coverage or which was diagnosed by a physician at any time prior to the effective date of coverage.</p> <p>(4)(a) Except as provided in this Subsection (4), a health benefit plan may impose a preexisting condition exclusion only if:</p> <p>(i) the exclusion relates to a preexisting condition for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date from an individual licensed or similarly authorized to provide those services under state law and operating within the scope of practice authorized by state law;</p> <p>(ii) the exclusion period ends no later than 12 months after the enrollment date, or in the case of a late enrollee, 18 months after the enrollment date; and</p> <p>(iii) the exclusion period is reduced by the number of days of creditable coverage the enrollee has as of the enrollment date, in accordance with Subsection (4)(b).</p> <p>(b)(i) The amount of creditable coverage allowed under Subsection (4)(a)(iii) is determined by counting all the days on which the individual has one or more types of creditable coverage.</p>	
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	<p>(ii) Days of creditable coverage that occur before a significant break in coverage are not required to be counted.</p> <p>(A) Days in a waiting period or affiliation period are not taken into account in determining whether a significant break in coverage has occurred.</p> <p>(B) For an individual who elects federal COBRA continuation coverage during the second election period provided under the federal Trade Act of 2002, the days between the date the individual lost group health plan coverage and the first day of the second COBRA election period are not taken into account in determining whether a significant break in coverage has occurred.</p> <p>(c) A group health benefit plan may not impose a preexisting condition exclusion relating to pregnancy.</p> <p>(d)(i) An insurer imposing a preexisting condition exclusion shall provide a written general notice of preexisting condition exclusion as part of any written application materials.</p> <p>(ii) The general notice shall include:</p> <p>(A) a description of the existence and terms of any preexisting condition exclusion under the plan, including the six-month period ending on the enrollment date, the maximum preexisting condition exclusion period, and how the insurer will reduce the maximum preexisting condition exclusion period by creditable coverage;</p> <p>(B) a description of the rights of individuals:</p> <p>(I) to demonstrate creditable coverage, including any applicable waiting periods, through a certificate of creditable coverage or through other means; and</p> <p>(II) to request a certificate of creditable coverage from a prior plan;</p> <p>(C) a statement that the current plan will assist in obtaining a certificate of creditable coverage from any prior plan or issuer if necessary; and</p>	
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	<p>(D) a person to contact, and an address and telephone number for the person, for obtaining additional information or assistance regarding the preexisting condition exclusion.</p> <p>(e) An insurer may not impose any limit on the amount of time that an individual has to present a certificate or other evidence of creditable coverage.</p> <p>(f) This Subsection (4) does not preclude application of any waiting period applicable to all new enrollees under the plan.</p> <p><u>(5)(a) A short-term limited duration plan policy that provides for an extension or renewal of the policy shall not exclude coverage for a loss due to a preexisting condition for a period greater than 12 months following the original effective date of coverage unless the preexisting condition is specifically and expressly excluded in the terms of the policy or certificate.</u></p> <p><u>(b)(i) An insurer imposing a preexisting condition exclusion shall provide a written general notice of preexisting condition exclusion as part of any written application materials.</u></p> <p><u>(ii) The general notice shall include:</u></p> <p><u>(A) a description of the existence and terms of any preexisting condition exclusion under the plan, including the maximum preexisting condition exclusion period; and</u></p> <p><u>(B) the exclusion period ends no later than 12 months after the original effective date.</u></p>	<p>Policy change: Makes language consistent with treatment of pre-existing conditions under ACA.</p>
Lines	Amendment text	Nature of change
	<p>31A-22-611</p> <p>(2) The insurer may require proof of the incapacity <u>impairment</u> and dependency be furnished by the person insured under the policy within 30 days of the effective date or the date the child attains the age specified in Subsection 31A-22-610.5(2), and at any time thereafter, except that the insurer may not require proof more often than annually after the two-year</p>	<p>Codifies practice: Revised for consistent terminology within the statute using the term, impairment rather than incapacity.</p>

	period immediately following attainment of the limiting age by the dependent with a disability.	
Lines	Amendment text	Nature of change
	<p>31A-22-627</p> <p>(3) For purposes of this section:</p> <p>(a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of medicine and health, would reasonably expect the absence of immediate medical attention at <u>through</u> a hospital emergency department to result in:</p> <p>(i) placing the insured's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;</p> <p>(ii) serious impairment to bodily functions; or</p> <p>(iii) serious dysfunction of any bodily organ or part.</p> <p>(b) "Hospital emergency department" means that area of a hospital in which emergency services are provided on a 24-hour-a-day basis.</p> <p>(c) "Stabilize" means the same as that term is defined in 42 U.S.C. Sec. 1395dd(e)(3).</p>	<p>Codifies practice: Revised definition of emergency medical condition for compliance with the Emergency Medical Treatment & Labor Act (EMTALA) and 45 CFR 147.138(b).</p>
Lines	Amendment text	Nature of change
	<p>31A-22-638. Coverage for prosthetic devices.</p> <p>(4) If the coverage described in this section is provided through a managed care plan, offered under Chapter 8, Health Maintenance Organizations and Limited Health Plans, or under a preferred provider plan under this chapter, <u>45, Managed Care Organizations</u>, the insured shall have access to medically necessary prosthetic clinical care, and to prosthetic devices and technology, from one or more prosthetic providers in the managed care plan's provider network.</p>	<p>Technical change: Corrects reference to Chapter 45, Managed Care Organizations, which should have been changed in HB336, Health Reform Amendments, 2017 General Session.</p>
Lines	Amendment text	Nature of change
	<p>31A-22-701. Groups eligible for group or blanket insurance.</p> <p>(1) As used in this section, "association group" means a lawfully</p>	<p>Technical change: Removes requirement for a labor union to have a constitution</p>

	<p>formed association of individuals or business entities that:</p> <ul style="list-style-type: none"> (a) purchases insurance on a group basis on behalf of members; and (b) is formed and maintained in good faith for purposes other than obtaining insurance. <p>(2) A group accident and health insurance policy may be issued to:</p> <ul style="list-style-type: none"> (a) a group: <ul style="list-style-type: none"> (i) to which a group life insurance policy may be issued under Section 31A-22-502, 31A-22-503, 31A-22-504, 31A-22-506, or 31A-22-507; and (ii) that is formed and maintained in good faith for a purpose other than obtaining insurance; (b) an association group authorized by the commissioner that: <ul style="list-style-type: none"> (i) has been actively in existence for at least five years; (ii) has a constitution and bylaws; (iii) has a shared or common purpose that is not primarily a business or customer relationship; (iv) is formed and maintained in good faith for purposes other than obtaining insurance; (v) does not condition membership in the association group on any health status-related factor relating to an individual, including an employee of an employer or a dependent of an employee; (vi) makes accident and health insurance coverage offered through the association group available to all members regardless of any health status-related factor relating to the members or individuals eligible for coverage through a member; (vii) does not make accident and health insurance coverage offered through the association group available other than in connection with a member of the association group; and (viii) is actuarially sound; or (c) a group specifically authorized by the commissioner, upon a finding that: <ul style="list-style-type: none"> (i) authorization is not contrary to the public interest; 	<p>and bylaws, and moved it to its own subsection.</p>
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	<ul style="list-style-type: none"> (ii) the group is actuarially sound; (iii) formation of the proposed group may result in economies of scale in acquisition, administrative, marketing, and brokerage costs; (iv) the insurance policy, insurance certificate, or other indicia of coverage that will be offered to the proposed group is substantially equivalent to insurance policies that are otherwise available to similar groups; (v) the group would not present hazards of adverse selection; (vi) the premiums for the insurance policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided; and (vii) the group is formed and maintained in good faith for a purpose other than obtaining insurance. <p>(3) A blanket accident and health insurance policy:</p> <ul style="list-style-type: none"> (a) covers a defined class of persons; (b) may not be offered or underwritten on an individual basis; (c) shall cover only a group that is: <ul style="list-style-type: none"> (i) actuarially sound; and (ii) formed and maintained in good faith for a purpose other than obtaining insurance; and (d) may be issued only to: <ul style="list-style-type: none"> (i) a common carrier or an operator, owner, or lessee of a means of transportation, as policyholder, covering persons who may become passengers as defined by reference to the person's travel status; (ii) an employer, as policyholder, covering any group of employees, dependents, or guests, as defined by reference to specified hazards incident to any activities of the policyholder; (iii) an institution of learning, including a school district, a school jurisdictional unit, or the head, principal, or governing board of a school jurisdictional unit, as policyholder, covering students, teachers, or employees; 	
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	<p>(iv) a religious, charitable, recreational, educational, or civic organization, or branch of one of those organizations, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities sponsored or supervised by the policyholder;</p> <p>(v) a sports team, camp, or sponsor of a sports team or camp, as policyholder, covering members, campers, employees, officials, or supervisors;</p> <p>(vi) a volunteer fire department, first aid, civil defense, or other similar volunteer organization, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to activities sponsored, supervised, or participated in by the policyholder;</p> <p>(vii) a newspaper or other publisher, as policyholder, covering its carriers;</p> <p>(viii) <u>a labor union, as a policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder;</u></p> <p>(ix) an association, including a labor union, that has a constitution and bylaws and that is organized in good faith for purposes other than that of obtaining insurance, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder; and</p> <p><u>or</u></p> <p>(ix) any other class of risks that, in the judgment of the commissioner, may be properly eligible for blanket accident and health insurance.</p>	
Lines	Amendment text	Nature of change
	<p>31A-22-722. Utah mini-COBRA benefits for employer group coverage.</p> <p>(1) An insured may extend the <u>employer's group policy shall offer an</u> employee's coverage <u>to be extended</u> under the current employer's group policy for a period of 12 months, except as provided in Subsection (2). The right to extend coverage includes:</p>	<p><i>Codifies practice:</i> Provides clarification that an employer group policy is required to offer continuation of coverage.</p>

	<ul style="list-style-type: none"> (a) voluntary termination; (b) involuntary termination; (c) retirement; (d) death; (e) divorce or legal separation; (f) loss of dependent status; (g) sabbatical; (h) a disability; (i) leave of absence; or (j) reduction of hours. 	
Lines	Amendment text	Nature of change
	<p>31A-22-726 Abortion coverage restriction in health benefit plan and on health insurance exchange.</p> <p>(1) As used in this section, “permitted abortion coverage” means coverage for abortion:</p> <ul style="list-style-type: none"> (a) that is necessary to avert: <ul style="list-style-type: none"> (i) the death of the woman on whom the abortion is performed; or (ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; (b) of a fetus that has a defect that is documented by a physician or physicians to be uniformly diagnosable and uniformly lethal; or (c) where the woman is pregnant as a result of: <ul style="list-style-type: none"> (i) rape, as described in Section 76-5-402; (ii) rape of a child, as described in Section 76-5-402.1; or (iii) incest, as described in Subsection 76-5-406(10) or Section 76-7-102. <p>(2) A person may not offer coverage for an abortion in a health benefit plan, unless the coverage is a type of permitted abortion coverage.</p> <p>(3) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under Title 63N, Chapter 11, Health System Reform Act, unless the coverage is a type of</p>	<p>Technical change: Removes reference to a state created insurance exchange, Avenue H, which was repealed during the 2017 General Session, HB336, Health Reform Amendments. Avenue H ceased business effective July 1, 2018.</p>

	<p>permitted abortion coverage.</p> <p>(4) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under the federal Patient Protection and Affordable Care Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.</p>	
Lines	Amendment text	Nature of change
	<p>31A-23a-111</p> <p>(5)(a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:</p> <ul style="list-style-type: none"> (i) revoke: <ul style="list-style-type: none"> (A) a license; or (B) a line of authority; (ii) suspend for a specified period of 12 months or less: <ul style="list-style-type: none"> (A) a license; or (B) a line of authority; (iii) limit in whole or in part: <ul style="list-style-type: none"> (A) a license; or (B) a line of authority; (iv) deny a license application; (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); <p>or</p> <ul style="list-style-type: none"> (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v). <p>(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee <u>or license applicant</u>:</p> <ul style="list-style-type: none"> (i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107; (ii) violated<u>s</u>: <ul style="list-style-type: none"> (A) an insurance statute; (B) a rule that is valid under Subsection 31A-2-201(3); or 	<p>Technical change: Most of the changes remove awkward present tense wording and replace it with past tense wording. Those changes make (5)(b) consistent with similar past-tense language in 31A-23b-401.</p>

	<p>(C) an order that is valid under Subsection 31A-2-201(4);</p> <p>(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;</p> <p>(iv) failed to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;</p> <p>(v) failed to meet the same good faith obligations in claims settlement that is required of admitted insurers;</p> <p>(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;</p> <p>(vii) refuses:</p> <p>(A) to be examined; or</p> <p>(B) to produce its accounts, records, and files for examination;</p> <p>(viii) has an officer who refuses to:</p> <p>(A) give information with respect to the insurance producer's affairs; or</p> <p>(B) perform any other legal obligation as to an examination;</p> <p>(ix) provided information in the license application that is:</p> <p>(A) incorrect;</p> <p>(B) misleading;</p> <p>(C) incomplete; or</p> <p>(D) materially untrue;</p> <p>(x) violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;</p> <p>(xi) obtained or attempted to obtain a license through misrepresentation or fraud;</p> <p>(xii) improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;</p> <p>(xiii) intentionally misrepresented the terms of an actual or proposed:</p> <p>(A) insurance contract;</p> <p>(B) application for insurance; or</p> <p>(C) life settlement;</p>	
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<p>(xiv) is <u>has been</u> convicted of:</p> <p>(A) a felony; or</p> <p>(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;</p> <p>(xv) admits or is found to have committed an insurance unfair trade practice or fraud;</p> <p>(xvi) in the conduct of business in this state or elsewhere:</p> <p>(A) used <u>s</u> fraudulent, coercive, or dishonest practices; or</p> <p>(B) demonstrated <u>s</u> incompetence, untrustworthiness, or financial irresponsibility;</p> <p>(xvii) has had an insurance license or other professional or occupational license <u>or registration</u>, or an equivalent to an insurance license or other professional or occupational license <u>or registration</u>:</p> <p>(A) denied;</p> <p>(B) suspended;</p> <p>(C) revoked; or</p> <p>(D) surrendered to resolve an administrative action;</p> <p>(xviii) forged <u>s</u> another's name to:</p> <p>(A) an application for insurance; or</p> <p>(B) a document related to an insurance transaction;</p> <p>(xix) improperly used <u>s</u> notes or another reference material to complete an examination for an insurance license;</p> <p>(xx) knowingly accepted <u>s</u> insurance business from an individual who is not licensed;</p> <p>(xxi) failed <u>s</u> to comply with an administrative or court order imposing a child support obligation;</p> <p>(xxii) failed <u>s</u> to:</p> <p>(A) pay state income tax; or</p> <p>(B) comply with an administrative or court order directing payment of state income tax;</p>	<p>Codifies practice: This change codifies current practice of holding a person with a denied, suspended, revoked or surrendered insurance or other professional or occupational <i>registration</i> to the same standard as a person with an insurance or other professional or occupational <i>license</i>.</p> <p>Codifies practice: Reflects practice of denying license application if convicted</p>
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	<p>(xxiii) <u>has been convicted of violating or permits others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by</u> therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or</p> <p>(xxiv) <u>engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public; or -</u></p> <p>(xxv) <u>has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.</u></p>	<p>applicant has not obtained the written consent required by federal law.</p> <p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the written consent required by federal law.</p>
Lines	Amendment text	Nature of change
	<p>31A-23a-402 Unfair marketing practices -- Communication -- Unfair discrimination -- Coercion or intimidation -- Restriction on choice.</p> <p>(1)(a)(i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:</p> <p>(A) a person who is or should be licensed under this title;</p> <p>(B) an employee or producer of a person described in Subsection (1)(a)(i)(A);</p> <p>(C) a person whose primary interest is as a competitor of a person licensed under this title; and</p> <p>(D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).</p> <p>(ii) As used in this Subsection (1), "false or misleading information" includes:</p> <p>(A) assuring the nonobligatory payment of future dividends or refunds of unused premiums in any specific or approximate amounts, but reporting</p>	<p>Technical change: Removes reference to Avenue H, which was repealed during the 2017 General Session, HB336, Health Reform Amendments. Avenue H ceased business effective July 1, 2018.</p>

	<p>fully and accurately past experience is not false or misleading information; and</p> <p>(B) with intent to deceive a person examining it:</p> <p>(I) filing a report;</p> <p>(II) making a false entry in a record; or</p> <p>(III) wilfully refraining from making a proper entry in a record.</p> <p>(iii) A licensee under this title may not:</p> <p>(A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or</p> <p>(B) use any name, advertisement, or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency, including Utah's small employer health insurance exchange known as "Avenue H," and the Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act:</p> <p>(I) is responsible for the insurance sales activities of the person;</p> <p>(II) stands behind the credit of the person;</p> <p>(III) guarantees any returns on insurance products of or sold by the person; or</p> <p>(IV) is a source of payment of any insurance obligation of or sold by the person.</p> <p>(iv) A person who is not an insurer may not assume or use any name that deceptively implies or suggests that person is an insurer.</p> <p>(v) A person other than persons licensed as health maintenance organizations under Chapter 8, Health Maintenance Organizations and Limited Health Plans, may not use the term "Health Maintenance Organization" or "HMO" in referring to itself.</p> <p>(b) A licensee's violation creates a rebuttable presumption that the violation was also committed by the insurer if:</p>	
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	<p>(i) the licensee under this title distributes cards or documents, exhibits a sign, or publishes an advertisement that violates Subsection (1)(a), with reference to a particular insurer:</p> <p>(A) that the licensee represents; or</p> <p>(B) for whom the licensee processes claims; and</p> <p>(ii) the cards, documents, signs, or advertisements are supplied or approved by that insurer.</p>	
Lines	Amendment text	Nature of change
	<p>31A-23a-415</p> <p>(3)(a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.</p> <p>(b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."</p> <p>(c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.</p> <p>(d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of <u>laws governing individual title insurance producers, agency title insurance producers and title insurers this part and Part 5, Compensation of Producers and Consultants, related to:</u></p> <p>(i) the marketing of title insurance; and</p> <p>(ii) audits of agency title insurance producers.</p>	<p>Codifies practice: Changed language confirms current practice of using the Title Licensee Restricted Account to pay costs incurred in administering, investigating and enforcing laws applicable to the title insurance industry.</p>
Lines	Amendment text	Nature of change
	<p>31A-23b-401</p> <p>(4)(a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:</p> <p>(i) revoke a license;</p>	

	<ul style="list-style-type: none"> (ii) suspend a license for a specified period of 12 months or less; (iii) limit a license in whole or in part; (iv) deny a license application; (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or (vi) take a combination of actions under Subsections (4)(a)(i) through (iv) and Subsection (4)(a)(v). (b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee: <ul style="list-style-type: none"> (i) is unqualified for a license under Section 31A-23b-204, 31A-23b-205, or 31A-23b-206; (ii) violated: <ul style="list-style-type: none"> (A) an insurance statute; (B) a rule that is valid under Subsection 31A-2-201(3); or (C) an order that is valid under Subsection 31A-2-201(4); (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state; (iv) failed to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final; (v) refused: <ul style="list-style-type: none"> (A) to be examined; or (B) to produce its accounts, records, and files for examination; (vi) had an officer who refused to: <ul style="list-style-type: none"> (A) give information with respect to the navigator's affairs; or (B) perform any other legal obligation as to an examination; (vii) provided information in the license application that is: <ul style="list-style-type: none"> (A) incorrect; (B) misleading; (C) incomplete; or (D) materially untrue; 	
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<p>(viii) violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;</p> <p>(ix) obtained or attempted to obtain a license through misrepresentation or fraud;</p> <p>(x) improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;</p> <p>(xi) intentionally misrepresented the terms of an actual or proposed:</p> <p>(A) insurance contract;</p> <p>(B) application for insurance; or</p> <p>(C) application for public program;</p> <p>(xii) is <u>has</u> been convicted of:</p> <p><u>(A) a felony; or</u></p> <p><u>(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;</u></p> <p>(xiii) admitted or is found to have committed an insurance unfair trade practice or fraud;</p> <p>(xiv) in the conduct of business in this state or elsewhere:</p> <p>(A) used fraudulent, coercive, or dishonest practices; or</p> <p>(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;</p> <p>(xv) <u>has</u> had an insurance license, navigator license, or its equivalent <u>or other professional or occupational license or registration, or an equivalent of same to an insurance license</u> denied, suspended, or revoked or surrendered to resolve an administrative action in another state, province, district, or territory;</p> <p>(xvi) forged another's name to:</p> <p>(A) an application for insurance;</p> <p>(B) a document related to an insurance transaction;</p> <p>(C) a document related to an application for a public program; or</p> <p>(D) a document related to an application for premium subsidies;</p>	<p><i>Codifies practice:</i> This change codifies existing practice of taking action against a licensee or applicant who is convicted of a misdemeanor involving dishonesty. This is consistent trustworthiness requirement in 31A-23b-204 and a 2018 change in 31A-23a-111(5)(b)(xiv).</p> <p><i>Codifies practice:</i> The change codifies existing practice of applying the same standard to persons holding professional or occupational licenses or registrations and persons holding insurance licenses or registrations. The change is consistent with a 2018 change to 31A-23a-111(5)(b)(xvii) and a proposed 2019 change to 31A-23a-111(5)(b)(xvii).</p>
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	<p>(xvii) improperly used notes or another reference material to complete an examination for a license;</p> <p>(xviii) knowingly accepted insurance business from an individual who is not licensed;</p> <p>(xix) failed to comply with an administrative or court order imposing a child support obligation;</p> <p>(xx) failed to:</p> <p>(A) pay state income tax; or</p> <p>(B) comply with an administrative or court order directing payment of state income tax;</p> <p>(xxi) <u>has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by therefore under 18 U.S.C. Sec. 1033 therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or</u></p> <p>(xxii) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public;:</p> <p>(xxiii) <u>has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.</u></p>	<p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p> <p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p>
Lines	Amendment text	Nature of change
	<p>31A-25-208</p> <p>(4)(a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:</p> <p>(i) revoke a license;</p> <p>(ii) suspend a license for a specified period of 12 months or less;</p> <p>(iii) limit a license in whole or in part; or</p>	

	<ul style="list-style-type: none"> (iv) deny a license application. (b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee: <ul style="list-style-type: none"> (i) is unqualified for a license under Section 31A-25-202, 31A-25-203, or 31A-25-204; (ii) has violated: <ul style="list-style-type: none"> (A) an insurance statute; (B) a rule that is valid under Subsection 31A-2-201(3); or (C) an order that is valid under Subsection 31A-2-201(4); (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state; (iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final; (v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers; (vi) is affiliated with and under the same general management or interlocking directorate or ownership as another third party administrator that transacts business in this state without a license; (vii) refuses: <ul style="list-style-type: none"> (A) to be examined; or (B) to produce its accounts, records, and files for examination; (viii) has an officer who refuses to: <ul style="list-style-type: none"> (A) give information with respect to the third party administrator's affairs; or (B) perform any other legal obligation as to an examination; (ix) provides information in the license application that is: <ul style="list-style-type: none"> (A) incorrect; (B) misleading; (C) incomplete; or (D) materially untrue; 	
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<p>(x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;</p> <p>(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;</p> <p>(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;</p> <p>(xiii) has intentionally misrepresented the terms of an actual or proposed:</p> <p>(A) insurance contract; or</p> <p>(B) application for insurance;</p> <p>(xiv) has been convicted of:</p> <p><u>(A) a felony; or</u></p> <p><u>(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;</u></p> <p>(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;</p> <p>(xvi) in the conduct of business in this state or elsewhere has:</p> <p>(A) used fraudulent, coercive, or dishonest practices; or</p> <p>(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;</p> <p>(xvii) has had an insurance license or its equivalent, other professional or occupational license or registration, or an equivalent of same <u>denied, suspended, or revoked or surrendered to resolve an administrative action in any other state, province, district, or territory;</u></p> <p>(xviii) has forged another's name to:</p> <p>(A) an application for insurance; or</p> <p>(B) a document related to an insurance transaction;</p> <p>(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;</p> <p>(xx) has knowingly accepted insurance business from an individual who is not licensed;</p>	<p><i>Codifies practice:</i> This change codifies existing practice of taking action against a licensee or applicant who is convicted of a misdemeanor involving dishonesty. This is consistent with the trustworthiness requirement in 31A-23b-204 and a 2018 change in 31A-23a-111(5)(b)(xiv).</p> <p><i>Codifies practice:</i> The change codifies existing practice of applying the same standard to persons holding professional or occupational licenses or registrations and persons holding insurance licenses or registrations. The change is consistent with a 2018 change to 31A-23a-111(5)(b)(xvii) and a proposed 2019 change to 31A-23a-111(5)(b)(xvii).</p>
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	<p>(xxi) has failed to comply with an administrative or court order imposing a child support obligation;</p> <p>(xxii) has failed to:</p> <p>(A) pay state income tax; or</p> <p>(B) comply with an administrative or court order directing payment of state income tax;</p> <p>(xxiii) <u>has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by therefore under 18 U.S.C. Sec. 1033</u> therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or</p> <p>(xxiv) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public;:</p> <p>(xxv) <u>has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.</u></p>	<p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p> <p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p>
Line	Amendment text	Nature of change
Lines	Amendment text	Nature of change
	<p>31A-26-213</p> <p>(5)(a) If the commissioner makes a finding under Subsection (5)(b) as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:</p> <p>(i) revoke:</p> <p>(A) a license; or</p> <p>(B) a license classification;</p> <p>(ii) suspend for a specified period of 12 months or less:</p> <p>(A) a license; or</p> <p>(B) a license classification;</p>	

<ul style="list-style-type: none"> (iii) limit in whole or in part: <ul style="list-style-type: none"> (A) a license; or (B) a license classification; (iv) deny a license application; (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v). (b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee: <ul style="list-style-type: none"> (i) is unqualified for a license or license classification under Section 31A-26-202, 31A-26-203, 31A-26-204, or 31A-26-205; (ii) has violated: <ul style="list-style-type: none"> (A) an insurance statute; (B) a rule that is valid under Subsection 31A-2-201(3); or (C) an order that is valid under Subsection 31A-2-201(4); (iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state; (iv) fails to pay a final judgment rendered against the person in this state within 60 days after the judgment became final; (v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers; (vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance adjuster that transacts business in this state without a license; (vii) refuses: <ul style="list-style-type: none"> (A) to be examined; or (B) to produce its accounts, records, and files for examination; (viii) has an officer who refuses to: <ul style="list-style-type: none"> (A) give information with respect to the insurance adjuster's affairs; or (B) perform any other legal obligation as to an examination; 	
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<p>(ix) provides information in the license application that is:</p> <p>(A) incorrect;</p> <p>(B) misleading;</p> <p>(C) incomplete; or</p> <p>(D) materially untrue;</p> <p>(x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;</p> <p>(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;</p> <p>(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;</p> <p>(xiii) has intentionally misrepresented the terms of an actual or proposed:</p> <p>(A) insurance contract; or</p> <p>(B) application for insurance;</p> <p>(xiv) has been convicted of:</p> <p><u>(A) a felony; or</u></p> <p><u>(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;</u></p> <p>(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;</p> <p>(xvi) in the conduct of business in this state or elsewhere has:</p> <p>(A) used fraudulent, coercive, or dishonest practices; or</p> <p>(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;</p> <p>(xvii) has had an insurance license or its equivalent, <u>other professional or occupational license or registration, or an equivalent of same denied, suspended, or revoked or surrendered to resolve an administrative action in any other state, province, district, or territory;</u></p> <p>(xviii) has forged another's name to:</p> <p>(A) an application for insurance; or</p>	<p>Codifies practice: This change codifies existing practice of taking action against a licensee or applicant who is convicted of a misdemeanor involving dishonesty. This is consistent with the trustworthiness requirement in 31A-23b-204 and a 2018 change in 31A-23a-111(5)(b)(xiv).</p> <p>Codifies practice: The change codifies existing practice of applying the same standard to persons holding professional or occupational licenses or registrations and persons holding insurance licenses or registrations. The change is consistent with a 2018 change to 31A-23a-</p>
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	<p>(B) a document related to an insurance transaction;</p> <p>(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;</p> <p>(xx) has knowingly accepted insurance business from an individual who is not licensed;</p> <p>(xxi) has failed to comply with an administrative or court order imposing a child support obligation;</p> <p>(xxii) has failed to:</p> <p>(A) pay state income tax; or</p> <p>(B) comply with an administrative or court order directing payment of state income tax;</p> <p>(xxiii) <u>has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by therefore under 18 U.S.C. Sec. 1033 therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or</u></p> <p>(xxiv) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public;:</p> <p>(xxv) <u>has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.</u></p>	<p>111(5)(b)(xvii) and a proposed 2019 change to 31A-23a-111(5)(b)(xvii).</p> <p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p> <p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p>
Line	Amendment text	Nature of change
	<p><u>31A-27a-512. Indemnitor liability.</u></p> <p><u>(1)(a) Except as otherwise provided in this chapter, the amount recoverable by the receiver from an indemnitor may not be reduced as a result of a delinquency proceeding with a finding of insolvency, regardless of any provision in the indemnity contract or other agreement.</u></p>	<p>Policy change: A loophole in Utah law makes it possible for a company to avoid its duty to indemnify an insolvent Utah insurance company. The Utah Insurance Commissioner's deputy receiver recommends that Utah adopt this statute to close the loophole. This proposal</p>

<p><u>(b) An agreement, written, oral, or otherwise, may not be enforced to the extent it is in conflict, or not in strict compliance with this section.</u></p> <p><u>(c) Except as expressly provided in this section, a person other than the receiver whether as a creditor, third party beneficiary, or otherwise does not have a direct right to indemnity proceeds from any indemnitor of the insolvent insurer:</u></p> <p><u>(i) on the basis of any written or oral agreement; or</u></p> <p><u>(ii) pursuant to an action or cause of action seeking any equitable or legal remedy.</u></p> <p><u>(d) This section applies to all the insurer's indemnity contracts.</u></p> <p><u>(2) The amount recoverable by the liquidator from an indemnitor is payable under one or more contracts of indemnity on the basis of:</u></p> <p><u>(a) proof of payment of the insured claim by an affected guaranty association, the insurer, or the receiver, to the extent of the payment; or</u></p> <p><u>(b) the allowance of the claim pursuant to:</u></p> <p><u>(i) Section 31A-27a-608;</u></p> <p><u>(ii) an order of the receivership court; or</u></p> <p><u>(iii) a plan of rehabilitation.</u></p> <p><u>(3) If the insurer takes credit for an indemnity contract in a filing or submission made to the commissioner and the indemnity contract does not contain the provisions required with respect to the obligations of indemnitor in the event of insolvency of the principal, the indemnity contract is considered to contain the provisions required with respect to:</u></p> <p><u>(a) the obligations of indemnitors in the event of insolvency of the principal in order to obtain indemnity; or</u></p> <p><u>(b) other applicable statutes.</u></p> <p><u>(4) An indemnity contract that under Subsection (3) is considered to contain certain provisions, is considered to contain a provision that:</u></p> <p><u>(a) In the event of insolvency and the appointment of a receiver, the indemnity obligation is payable to the indemnified insurer or to its receiver</u></p>	<p>closely tracks the language of a similar statute (Section 31A-27a-512) that applies to reinsurers of insolvent Utah insurance companies.</p>
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	<p><u>without diminution because of the insolvency or because the receiver fails to pay all or a portion of the claim;</u></p> <p><u>(b) payment shall be made upon either:</u></p> <p><u>(i) to the extent of the payment, proof of payment of the insured claim by an affected guaranty association, the insurer, or the receiver; or</u></p> <p><u>(ii) the allowance of the claim pursuant to:</u></p> <p><u>(A) Section 31A-27a-608;</u></p> <p><u>(B) an order of the receivership court; or</u></p> <p><u>(C) a plan of rehabilitation; and</u></p> <p><u>(c) if an indemnitor does not pay the amount billed by the receiver within 60 days after the mailing by the receiver, interest on the unpaid billed amount will begin to accrue at the statutory legal rate provided in Subsection 15-1-1(2), except that all or a portion of the interest may be waived.</u></p> <p><u>(5)(a) The receiver shall notify in writing, in accordance with the terms of the indemnity contract, each indemnitor obligated in relation to an indemnified claim or the pendency of an indemnified claim against the indemnified company.</u></p> <p><u>(b) The receiver's failure to give notice of a pending claim:</u></p> <p><u>(i) does not excuse the obligation of the indemnitor unless the indemnitor is prejudiced by the receiver's failure; and</u></p> <p><u>(ii) if the indemnitor is prejudiced, reduces the indemnitor's obligations only to the extent of the prejudice.</u></p> <p><u>(c) An indemnitor may interpose, at its own expense, in a proceeding in which an indemnified claim is to be adjudicated, any one or more defenses that the indemnitor considers available to the indemnified company or its receiver.</u></p> <p><u>(6) The entry of an order of rehabilitation or liquidation:</u></p> <p><u>(a) may not be considered a breach or an anticipatory breach of an indemnity contract; and</u></p>	
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	<p><u>(b) is not grounds for retroactive revocation or retroactive cancellation of an indemnity contract by the indemnitor.</u></p> <p>[This proposed statute replaces current Section 31A-27a-512. As a result, current Section 31A-27a-512 becomes Section 31A-27a-513; current Section 31A-27a-513 becomes Section 31A-27a-514; current Section 31A-27a-514 becomes Section 31A-27a-515; current Section 31A-27a-515 becomes Section 31A-27a-516; current Section 31A-27a-516 becomes Section 31A-27a-517.]</p>	
Lines	Amendment text	Nature of change
	<p>31A-30-103 Definitions.</p> <p>As used in this chapter:</p> <p>***</p> <p>(19) “Short term limited duration insurance” means a health benefit product that:</p> <p>—— (a) is not renewable; and ——</p> <p>—— (b) has an expiration date specified in the contract that is less than 364 days 12 months after the date the plan became effective.</p> <p>(20) “Small employer carrier” means a carrier that provides health benefit plans covering eligible employees of one or more small employers in this state, regardless of whether:</p> <p>(a) coverage is offered through:</p> <p>(i) an association;</p> <p>(ii) a trust;</p> <p>(iii) a discretionary group; or</p> <p>(iv) other similar grouping; or</p> <p>(b) the policy or contract is situated out-of-state.</p>	<p>Technical change: This definition has been moved to Section 31A=1-301.</p>
Lines	Amendment text	Nature of change
	<p>31A-30-118</p> <p>(1)(a) The commissioner shall identify a new mandated benefit that is in excess of the essential health benefits required by</p>	

	<p>PPACA.</p> <p>(b) The state shall quantify the cost attributable to each additional mandated benefit specified in Subsection (1)(a) based on a qualified health plan issuer's calculation of the cost associated with the mandated benefit, which shall be:</p> <ul style="list-style-type: none"> (i) calculated in accordance with generally accepted actuarial principles and methodologies; (ii) conducted by a member of the American Academy of Actuaries; and (iii) reported to the commissioner and to the individual exchange operating in the state. <p>(c) The commissioner may require a proponent of a new mandated benefit under Subsection (1)(a) to provide the commissioner with a cost analysis conducted in accordance with Subsection (1)(b). The commissioner may use the cost information provided under this Subsection (1)(c) to establish estimates of the cost to the state under Subsection (2).</p> <p>(2) If the state is required to defray the cost of additional required benefits under the provisions of 45 C.F.R. 155.170:</p> <ul style="list-style-type: none"> (a) the state shall make the required payments: <ul style="list-style-type: none"> (i) in accordance with Subsection (3); and (ii) directly to the qualified health plan issuer in accordance with 45 C.F.R. 155.170; (b) an issuer of a qualified health plan that receives a payment under the provisions of Subsection (1) and 45 C.F.R. 155.170 shall: <ul style="list-style-type: none"> (i) reduce the premium charged to the individual on whose behalf the issuer will be paid under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); or (ii) notwithstanding Subsection 31A-23a-402.5(5), provide a premium rebate to an individual on whose behalf the issuer received a payment under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); and 	
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	<p>(c) a premium rebate made under this section is not a prohibited inducement under Section 31A-23a-402.5.</p> <p>(3) A payment required under 45 C.F.R. 155.170(c) shall:</p> <p>(a) unless otherwise required by PPACA, be based on a statewide average of the cost of the additional benefit for all issuers who are entitled to payment under the provisions of 45 C.F.R. 155.70; and</p> <p>(b) be submitted to an issuer through a process established and administered by:</p> <p>——(i) the federal marketplace exchange for the state under PPACA for individual health plans; or</p> <p>——(ii) Avenue H small employer market exchange for qualified health plans offered on the exchange.</p> <p>(4) The commissioner:</p> <p>(a) may adopt rules as necessary to administer the provisions of this section and 45 C.F.R. 155.170; and</p> <p>(b) may not establish or implement the process for submitting the payments to an issuer under Subsection (3)(b)(i) unless the cost of establishing and implementing the process for submitting payments is paid for by the federal exchange marketplace.</p>	<p>Technical change: Removes reference to a state created insurance exchange, Avenue H, which was repealed during the 2017 General Session, HB336, Health Reform Amendments. Avenue H ceased business effective July 1, 2018.</p> <p>Policy change: Removes prohibition on commissioner establishing process for payments to an issuer.</p>
Lines	Amendment text	Nature of change
	<p>31A-31-103</p> <p>(1) A person commits a fraudulent insurance act if that person with intent to deceive or defraud:</p> <p>(a) knowingly presents or causes to be presented to an insurer any oral or written statement or representation knowing that the statement or representation contains false, incomplete, or misleading information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract;</p>	<p>Change in policy: The changes are needed to address: (a) new</p>

<p><u>(i) as part of or in support of obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to that person or entity;</u></p> <p><u>(ii) as part of or in support of a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to that person or entity; or</u></p> <p><u>(iii) as part of or in support of a scheme or artifice to file an insurance claim for a loss that has already occurred.</u></p> <p>(b) knowingly presents or causes to be presented to an insurer any oral or written statement or representation:</p> <p>(i)(A) as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or</p> <p>(B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and</p> <p>(ii) knowing that the statement or representation contains false, incomplete, or misleading information concerning any fact or thing material to the claim;</p> <p>(c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance act;</p> <p><u>(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;</u></p> <p>(d)e <u>knowingly</u> assists, abets, solicits, or conspires with another to commit a fraudulent insurance act;</p> <p>(f) <u>knowingly</u> supplies false or fraudulent material information in any document or statement required by the department;</p> <p>(g) <u>knowingly</u> fails to forward a premium to an insurer in violation of Section 31A-23a-411.1; or</p>	<p>developments in the kinds of fraud being committed in applying for insurance or insurance benefits; and (b) the increase in the loss values involved in those new kinds of fraud.</p> <p>Technical change: Adds to the Insurance Code's anti-fraud statute a provision in the Criminal Code's insurance fraud statute (76-6-512(1)(d)).</p> <p>Technical change: Adds to the Insurance Code's anti-fraud statute a term from the Criminal Code's insurance fraud statute (76-6-512(1)(f)).</p>
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	<p>(g) knowingly employs, uses, or acts as a runner for the purpose of committing a fraudulent insurance act.</p> <p>(2) A service provider commits a fraudulent insurance act if that service provider with intent to deceive or defraud:</p> <p>(a) knowingly submits or causes to be submitted a bill or request for payment:</p> <p>(i) containing charges or costs for an item or service that are substantially in excess of customary charges or costs for the item or service; or</p> <p>(ii) containing itemized or delineated fees for what would customarily be considered a single procedure or service;</p> <p>(b) knowingly furnishes or causes to be furnished an item or service to a person:</p> <p>(i) substantially in excess of the needs of the person; or</p> <p>(ii) of a quality that fails to meet professionally recognized standards;</p> <p>(c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance act; or</p> <p>(d) assists, abets, solicits, or conspires with another to commit a fraudulent insurance act.</p> <p>(3) An insurer commits a fraudulent insurance act if that insurer with intent to deceive or defraud:</p> <p>(a) knowingly withholds information or provides false or misleading information with respect to an application, coverage, benefits, or claims under a policy or certificate;</p> <p>(b) assists, abets, solicits, or conspires with another to commit a fraudulent insurance act;</p> <p>(c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance act; or</p> <p>(d) knowingly supplies false or fraudulent material information in any document or statement required by the department.</p>	
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	(4) An insurer or service provider is not liable for any fraudulent insurance act committed by an employee without the authority of the insurer or service provider unless the insurer or service provider knew or should have known of the fraudulent insurance act.	
Lines	Amendment text	Nature of change
	31A-31-107 In an action involving workers' compensation, this chapter supersedes Title 31A, Chapter 31, Insurance Fraud Act. <u>Nothing in this section prohibits the Utah Insurance Department from investigating violations of this Section or from pursuing civil and criminal penalties based on those violations pursuant to Section 31A-31-109 and Title 34A.</u>	Codifies practice: This amendment confirms the department's current practice of enforcing 34A-2-110.
Lines	Amendment text	Nature of change
	31A-35-405 <u>(1) After the commissioner receives the application, fee and information under Section 31A-35-401(2), the board will determine whether the person applying for a bail bond agency license meets the requirements for issuance of a license under this chapter.</u> (12) If Upon a determination by the board <u>determines</u> that a person applying for a bail bond agency license meets the requirements for issuance of a license under this chapter, the commissioner shall issue to that person a bail bond agency license. (23) If the board determines that an application does not meet the requirements for issuance of a license under this chapter, the commissioner has final authority to determine whether to issue a bail bond agency license. (a4) If the commissioner denies an application for a bail bond agency license under this chapter, the commissioner shall provide prompt written notification of the denial by commencing an informal adjudicative proceeding in compliance with to the person applying for licensure: (i) — stating the grounds for denial; and	Codifies practice: Changed language confirms current practice in which Board approves agency licenses and commissioner has final authority if Board disapproves. Technical change: Word changes still require compliance with Utah Administrative Procedures Act, still require compliance with Utah Admin. Code R590-160, and still require a hearing within 60 days.

	<p>(ii) — notifying the person applying for licensure as a bail bond agency that:</p> <p>(A) — the person is entitled to a hearing if that person wants to contest the denial; and</p> <p>(B) — if the person wants a hearing, the person shall submit the request in writing to the commissioner within 15 days after the issuance of the denial.</p> <p>(b) — The department shall schedule a hearing described in Subsection (2)(a) no later than 60 days after the commissioner's receipt of the request.</p> <p>(c) — The department shall hear the appeal, and may:</p> <p>(i) — return the case to the commissioner for reconsideration;</p> <p>(ii) — modify the commissioner's decision; or</p> <p>(iii) — reverse the commissioner's decision.</p> <p>(3) — A decision under this section is subject to review under Title 63G, Chapter 4, Administrative Procedures Act and Utah Admin. Code R590-160. <u>A hearing in the proceeding will be held no later than 60 days after a request for hearing is received.</u></p>	
Line	Amendment text	Nature of change
Line	Amendment text	Nature of change
	<p>31A-37-102</p> <p>[To save space, Subsections requiring only renumbering are not included]</p> <p>As used in this chapter:</p> <p>(1)(a) “Affiliated company” means a business entity that because of common ownership, control, operation, or management is in the same corporate or limited liability company system as:</p> <p>(i) a parent;</p> <p>(ii) an industrial insured; or</p> <p>(iii) a member organization.</p>	<p><i>Codifies practice:</i> The current version of Chapter 37, Part 2 contains separate but identical provisions for captive insurers that are formed as corporations and those that are formed as limited liability companies. The Department proposed amendments to Chapter 37 consolidate the separate provisions and create one set that applies to both corporations and LLCs. The added definitions in this</p>

<p>(b) Notwithstanding Subsection (1)(a), the commissioner may issue an order finding that a business entity is, <u>or is not,</u> an affiliated company.</p> <p><u>(3) "Applicant captive insurance company" means an organization that has applied for a captive insurance company certificate of authority, but does not include an organization whose application has been rejected or withdrawn.</u></p> <p><u>(15) "Controlled unaffiliated risk" means a risk of a controlled unaffiliated business.</u></p> <p><u>(17) "Establisher" means a person that establishes a business entity or a trust.</u></p> <p><u>(18) "Governing body" means the persons who collectively hold the ultimate authority to direct and manage the affairs of an organization but does not include the organization's interest holders unless the ultimate authority to direct and manage the affairs of the organization is vested in the interest holders.</u></p> <p><u>(22) "Interest", in the context of an interest held by an interest holder, means any ownership interest held by an interest holder in a business entity or trust.</u></p> <p><u>(25) "Organization" means all entities permitted to be organized under the laws of a jurisdiction.</u></p> <p><u>(26) "Organizational charter" means the central governing document or documents of an organization.</u></p> <p><u>(1927) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding securities of an organization.</u></p> <p><u>(2231) "Protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.</u></p> <p><u>(2635) "Sponsored captive insurance company" means a captive insurance company:</u></p> <p><u>(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;</u></p>	<p>section are needed to support consolidation.</p>
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	<p>(b) that is formed or holding a certificate of authority under this chapter;</p> <p>(c) that insures the risks of a separate participant through the contract;</p> <p>and</p> <p>(d) that segregates each participant's liability through one or more protected cells.</p>	
Line	Amendment text	Nature of change
	<p>31A-37-103</p> <p>(1) Except as provided in Subsections (2) and (3) or otherwise provided in this chapter, a provision of this title other than this chapter does not apply to a captive insurance company.</p> <p>(2) To the extent that a provision of the following does not contradict this chapter, the provision applies to a captive insurance company that receives a certificate of authority under this chapter:</p> <p><u>(a) Chapter 1, General Provisions;</u></p> <p><u>(ab)</u> Chapter 2, Administration of the Insurance Laws;</p> <p><u>(bc)</u> Chapter 4, Insurers in General;</p> <p><u>(cd)</u> Chapter 5, Domestic Stock and Mutual Insurance Corporations;</p> <p><u>(de)</u> Chapter 14, Foreign Insurers;</p> <p><u>(ef)</u> Chapter 16, Insurance Holding Companies;</p> <p><u>(fg)</u> Chapter 17, Determination of Financial Condition;</p> <p><u>(gh)</u> Chapter 18, Investments;</p> <p><u>(hi)</u> Chapter 19a, Utah Rate Regulation Act;</p> <p><u>(ij)</u> Chapter 27, Delinquency Administrative Action Provisions; and</p> <p><u>(jk)</u> Chapter 27a, Insurer Receivership Act.</p> <p>(3) In addition to this chapter, and subject to Section 31A-37a-103:</p> <p>(a)Chapter 37a, Special Purpose Financial Captive Insurance Company Act, applies to a special purpose financial captive insurance company; and</p> <p>(b) for purposes of a special purpose financial captive insurance company, a reference in this chapter to "this chapter" includes a reference to Chapter 37a, Special Purpose Financial Captive Insurance Company Act.</p>	<p><i>Codifies practice:</i> The addition of Chapter 1 makes it clear that captive insurers are governed by the definitions of Chapter 1. Those definitions aid in the consolidation effort described above.</p>

	(4) In addition to this chapter, an industrial group captive insurance company formed as a risk retention group captive is subject to Chapter 15, Part 2, Risk Retention Groups Act, to the extent that this chapter is silent regarding regulation of risk retention groups conducting business in the state.	
Line	Amendment text	Nature of change
	<p>31A-37-106</p> <p>(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may adopt rules to:</p> <p>(a) determine circumstances under which a branch captive insurance company is not required to be a pure captive insurance company;</p> <p>(b) require a statement, document, or information that a captive insurance company shall provide to the commissioner to obtain a certificate of authority;</p> <p>(c) determine a factor a captive insurance company shall provide evidence of under Subsection 31A-37-202(4)(b);</p> <p>(d) prescribe one or more capital requirements for a captive insurance company in addition to those required under Section 31A-37-204 based on the type, volume, and nature of insurance business transacted by the captive insurance company;</p> <p>(e) waive or modify a requirement for public notice and hearing for the following by a captive insurance company:</p> <p>(i) merger;</p> <p>(ii) consolidation;</p> <p>(iii) conversion;</p> <p>(iv) mutualization;</p> <p>(v) redomestication; or</p> <p>(vi) acquisition;</p> <p>(f) approve the use of one or more reliable methods of valuation and rating for:</p>	

<p>(i) an association captive insurance company; (ii) a sponsored captive insurance company; or (iii) an industrial insured group; (g) prohibit or limit an investment that threatens the solvency or liquidity of: (i) a pure captive insurance company; or (ii) an industrial insured captive insurance company; (h) determine the financial reports a sponsored captive insurance company shall annually file with the commissioner; (i) prescribe the required forms and reports under Section 31A-37-501; and (j) establish one or more standards to ensure that: (i) one of the following is able to exercise control of the risk management function of a controlled unaffiliated business to be insured by a pure captive insurance company: (A) a parent; or (B) an affiliated company of a parent; or (ii) one of the following is able to exercise control of the risk management function of a controlled unaffiliated business to be insured by an industrial insured captive insurance company: (A) an industrial insured; or (B) an affiliated company of the industrial insured; <u>and</u> (k) <u>establish requirements for obtaining and maintaining a certificate of dormancy.</u> (2) Notwithstanding Subsection (1)(j), until the commissioner adopts the rules authorized under Subsection (1)(j), the commissioner may by temporary order grant authority to insure risks to: (a) a pure captive insurance company; or (b) an industrial insured captive insurance company.</p>	<p><i>Policy change:</i> A certificate of dormancy (see part 7 infra) allows a captive insurer to remain in existence without conducting business. Many other states provide something similar. Utah needs this provision to maintain its position as a leader in the captive insurance industry.</p>
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	(3) The commissioner may issue prohibitory, mandatory, and other orders relating to a captive insurance company as necessary to enable the commissioner to secure compliance with this chapter.	
Line	Amendment text	Nature of change
	<p>31A-37-201</p> <p><u>(1) The commissioner may issue a certificate of authority to act as an insurer in this state to a captive insurance company that meets the requirements of this chapter.</u></p> <p><u>(2) To conduct insurance business in this state, a captive insurance company shall:</u></p> <p><u>(a) obtain from the commissioner a certificate of authority to conduct insurance;</u></p> <p><u>(b) hold at least once each year in this state a meeting of the governing body;</u></p> <p><u>(c) maintain in this state:</u></p> <p><u>(i) the principal place of business of the captive insurance company; or</u></p> <p><u>(ii) in the case of a branch captive insurance company, the principal place of business for the branch operations of the branch captive insurance company; and</u></p> <p><u>(d) except as provided in Subsection (3), appoint a resident agent to accept service of process and to otherwise act on behalf of the captive insurance company in this state.</u></p> <p><u>(3) Notwithstanding Subsection (2)(d), in the case of a captive insurance company formed as a corporation, if the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the commissioner is the agent of the captive insurance company upon whom process, notice, or demand may be served.</u></p> <p><u>(4)(a) Before receiving a certificate of authority, an applicant captive insurance company shall file with the commissioner:</u></p> <p><u>(i) a certified copy of the organizational charter of the organization;</u></p>	<p><i>Codifies practice:</i> This section represents the Department's effort to consolidate the provisions that separately govern corporations and LLCs.</p>

	<p><u>(ii) a statement under oath of the president and secretary or their equivalents showing the financial condition of the organization; and</u></p> <p><u>(iii) any other statement or document required by the commissioner under Section 31A-37-106.</u></p> <p><u>(b) In addition to the information required by Subsection (4)(a), an applicant captive insurance company shall file with the commissioner evidence of:</u></p> <p><u>(i) the amount and liquidity of the assets of the applicant captive insurance company relative to the risks to be assumed by the applicant captive insurance company;</u></p> <p><u>(ii) the adequacy of the expertise, experience, and character of the person who will manage the applicant captive insurance company;</u></p> <p><u>(iii) the overall soundness of the plan of operation of the applicant captive insurance company;</u></p> <p><u>(iv) the adequacy of the loss prevention programs for the prospective insureds of the applicant captive insurance company as deemed necessary by the commissioner; and</u></p> <p><u>(v) any other factor the commissioner:</u></p> <p><u>(A) adopts by rule under Section 31A-37-106; and</u></p> <p><u>(B) considers relevant in ascertaining whether the applicant captive insurance company will be able to meet the policy obligations of the applicant captive insurance company.</u></p> <p><u>(c) In addition to the information required by Subsections (4)(a) and (b) an applicant sponsored captive insurance company shall file with the commissioner:</u></p> <p><u>(i) a business plan at the level of detail required by the commissioner under Section 31A-37-106 demonstrating:</u></p> <p><u>(A) the manner in which the applicant sponsored captive insurance company will account for the losses and expenses of each protected cell;</u></p> <p><u>and</u></p>	
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	<p><u>(B) the manner in which the applicant sponsored captive insurance company will report to the commissioner the financial history, including losses and expenses, of each protected cell;</u></p> <p><u>(ii) a statement acknowledging that the applicant sponsored captive insurance company will make all financial records of the applicant sponsored captive insurance company, including records pertaining to a protected cell, available for inspection or examination by the commissioner;</u></p> <p><u>(iii) a contract or sample contract between the applicant sponsored captive insurance company and a participant; and</u></p> <p><u>(iv) evidence that expenses will be allocated to each protected cell in an equitable manner.</u></p> <p><u>(5)(a) Information submitted pursuant to this Section (201) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.</u></p> <p><u>(b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner may disclose information submitted pursuant to this Section (201) to a public official having jurisdiction over the regulation of insurance in another state if:</u></p> <p><u>(i) the public official receiving the information agrees in writing to maintain the confidentiality of the information; and</u></p> <p><u>(ii) the laws of the state in which the public official serves require the information to be confidential.</u></p> <p><u>(c) This Subsection (5) does not apply to information provided by an industrial insured captive insurance company insuring the risks of an industrial insured group.</u></p> <p><u>(6)(a) A captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:</u></p>	
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	<p><u>(i) a fee for examining, investigating, and processing, by a department employee, of an application for a certificate of authority made by an applicant captive insurance company;</u></p> <p><u>(ii) a fee for obtaining a certificate of authority for the year the captive insurance company is issued a certificate of authority by the department;</u></p> <p><u>and</u></p> <p><u>(iii) a certificate of authority renewal fee assessed annually.</u></p> <p><u>(b) the commissioner may:</u></p> <p><u>(i) assign a department employee or retain legal, financial, and examination services from outside the department to perform the services described in:</u></p> <p><u>(A) Subsection (6)(a); and</u></p> <p><u>(B) Section 31A-37-502; and</u></p> <p><u>(ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the applicant captive insurance company.</u></p> <p><u>(7) If the commissioner is satisfied that the documents and statements filed by the applicant captive insurance company comply with this chapter, the commissioner may grant a certificate of authority authorizing the company to do insurance business in the state.</u></p> <p><u>(8) A certificate of authority granted under this section expires annually and shall be renewed by July 1 of each year.</u></p>	
Line	Amendment	Nature of change
	<p>31A-37-202</p> <p>(1)(a) Except as provided in Subsection (1)(b), when permitted by its articles of incorporation, certificate of organization, or charter, a captive insurance company may apply to the commissioner for a certificate of authority to do all insurance authorized by this title except workers' compensation insurance.</p> <p>(b) Notwithstanding Subsection (1)(a):</p> <p>(i) a pure captive insurance company may not insure a risk other than</p>	<p>Codifies practice: This section represents the Department's effort to consolidate the provisions that separately govern corporations and LLCs.</p>

	<p>a risk of:</p> <p>(A) the pure captive insurance company's parent or affiliate;</p> <p>(B) a controlled unaffiliated business; or</p> <p>(C) a combination of Subsections (1)(b)(i)(A) and (B);</p> <p>(ii) an association captive insurance company may not insure a risk other than a risk of:</p> <p>(A) an affiliate;</p> <p>(B) a member organization of its association; and</p> <p>(C) an affiliate of a member organization of its association;</p> <p>(iii) an industrial insured captive insurance company may not insure a risk other than a risk of:</p> <p>(A) an industrial insured that is part of the industrial insured group;</p> <p>(B) an affiliate of an industrial insured that is part of the industrial insured group; and</p> <p>(C) a controlled unaffiliated business of:</p> <p>(I) an industrial insured that is part of the industrial insured group; or</p> <p>(II) an affiliate of an industrial insured that is part of the industrial insured group;</p> <p>(iv) a special purpose captive insurance company may only insure a risk of its parent;</p> <p>(v) a captive insurance company may not provide:</p> <p>(A) personal motor vehicle insurance coverage;</p> <p>(B) homeowner's insurance coverage; or</p> <p>(C) a component of a coverage described in this Subsection (1)(b)(v); and</p> <p>(vi) a captive insurance company may not accept or cede reinsurance except as provided in Section 31A-37-303.</p> <p>(c) Notwithstanding Subsection (1)(b)(iv), for a risk approved by the commissioner a special purpose captive insurance company may provide:</p>	
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	<p> (i) insurance; (ii) reinsurance; or (iii) both insurance and reinsurance. </p> <p> (2) To conduct insurance business in this state a captive insurance company shall: </p> <p> (a) obtain from the commissioner a certificate of authority authorizing it to conduct insurance business in this state; (b) hold at least once each year in this state: </p> <p> (i) a board of directors meeting; or (ii) in the case of a limited liability company, a meeting of the managers; </p> <p> (c) maintain in this state: </p> <p> (i) the principal place of business of the captive insurance company; or (ii) in the case of a branch captive insurance company, the principal place of business for the branch operations of the branch captive insurance company; and </p> <p> (d) except as provided in Subsection (3), appoint a resident registered agent to accept service of process and to otherwise act on behalf of the captive insurance company in this state. </p> <p> (3) Notwithstanding Subsection (2)(d), in the case of a captive insurance company formed as a corporation, if the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the commissioner is the agent of the captive insurance company upon whom process, notice, or demand may be served. </p> <p> (4)(a) Before receiving a certificate of authority, a captive insurance company: </p> <p> (i) formed as a corporation shall file with the commissioner: </p> <p> (A) a certified copy of: (I) articles of incorporation or the charter of the corporation; and (II) bylaws of the corporation; </p>	
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	<p>(B) a statement under oath of the president and secretary of the corporation showing the financial condition of the corporation; and</p> <p>(C) any other statement or document required by the commissioner under Section 31A-37-106; and</p> <p>(ii) formed as a limited liability company shall file with the commissioner:</p> <p>(A) a certified copy of the certificate of organization and the operating agreement of the organization;</p> <p>(B) a statement under oath of the president and secretary of the organization showing the financial condition of the organization;</p> <p>(C) evidence that the limited liability company is manager-managed; and</p> <p>(D) any other statement or document required by the commissioner under Section 31A-37-106.</p> <p>(b) In addition to the information required by Subsection (4)(a), an applicant captive insurance company shall file with the commissioner evidence of:</p> <p>(i) the amount and liquidity of the assets of the applicant captive insurance company relative to the risks to be assumed by the applicant captive insurance company;</p> <p>(ii) the adequacy of the expertise, experience, and character of the person who will manage the applicant captive insurance company;</p> <p>(iii) the overall soundness of the plan of operation of the applicant captive insurance company;</p> <p>(iv) the adequacy of the loss prevention programs for the following of the applicant captive insurance company:</p> <p>(A) a parent;</p> <p>(B) a member organization; or</p> <p>(C) an industrial insured; and</p> <p>(v) any other factor the commissioner:</p> <p>(A) adopts by rule under Section 31A-37-106; and</p>	
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	<p>(B) considers relevant in ascertaining whether the applicant captive insurance company will be able to meet the policy obligations of the applicant captive insurance company.</p> <p>(c) In addition to the information required by Subsections (4)(a) and (b) an applicant sponsored captive insurance company shall file with the commissioner:</p> <p>(i) a business plan at the level of detail required by the commissioner under Section 31A-37-106 demonstrating:</p> <p>(A) the manner in which the applicant sponsored captive insurance company will account for the losses and expenses of each protected cell; and</p> <p>(B) the manner in which the applicant sponsored captive insurance company will report to the commissioner the financial history, including losses and expenses, of each protected cell;</p> <p>(ii) a statement acknowledging that the applicant sponsored captive insurance company will make all financial records of the applicant sponsored captive insurance company, including records pertaining to a protected cell, available for inspection or examination by the commissioner;</p> <p>(iii) a contract or sample contract between the applicant sponsored captive insurance company and a participant; and</p> <p>(iv) evidence that expenses will be allocated to each protected cell in an equitable manner.</p> <p>(5)(a) Information submitted pursuant to Subsection (4) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.</p> <p>(b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner may disclose information submitted pursuant to Subsection (4) to a public official having jurisdiction over the regulation of insurance in another state if:</p> <p>(i) the public official receiving the information agrees in writing to</p>	
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	<p>maintain the confidentiality of the information; and</p> <p>(ii) the laws of the state in which the public official serves require the information to be confidential.</p> <p>(c) This Subsection (5) does not apply to information provided by an industrial insured captive insurance company insuring the risks of an industrial insured group.</p> <p>(6)(a) A captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:</p> <ul style="list-style-type: none"> (i) a fee for examining, investigating, and processing, by a department employee, of an application for a certificate of authority made by a captive insurance company; (ii) a fee for obtaining a certificate of authority for the year the captive insurance company is issued a certificate of authority by the department; and (iii) a certificate of authority renewal fee. <p>(b) The commissioner may:</p> <ul style="list-style-type: none"> (i) assign a department employee or retain legal, financial, and examination services from outside the department to perform the services described in: <ul style="list-style-type: none"> (A) Subsection (6)(a); and (B) Section 31A-37-502; and (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the applicant captive insurance company. <p>(7) If the commissioner is satisfied that the documents and statements filed by the applicant captive insurance company comply with this chapter, the commissioner may grant a certificate of authority authorizing the company to do insurance business in this state.</p> <p>(8) A certificate of authority granted under this section expires annually and shall be renewed by July 1 of each year.</p> <p><u>(1) A captive insurance company may not directly insure a risk other than</u></p>	
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	<p><u>the risk of a parent or an affiliated organization except that it may insure:</u></p> <p><u>(a) an industrial insured captive insurance company;</u></p> <p><u>(b) a protected cell;</u></p> <p><u>(c) a pure captive insurance company; and</u></p> <p><u>(d) a sponsored captive insurance company.</u></p> <p><u>(2) A captive insurance company may provide any type of insurance authorized by Title 31A except:</u></p> <p><u>(a) workers' compensation insurance;</u></p> <p><u>(b) personal motor vehicle insurance;</u></p> <p><u>(c) homeowner's insurance; and</u></p> <p><u>(d) a component of the insurance listed in this Subsection.</u></p> <p><u>(3) A captive insurance company is prohibited from providing coverage for:</u></p> <p><u>(a) a wager or gaming risk;</u></p> <p><u>(b) loss of an election;</u></p> <p><u>(c) the penal consequences of a crime; and</u></p> <p><u>(d) punitive damages.</u></p> <p><u>(4) Notwithstanding Subsections (2) and (3), a captive insurance company:</u></p> <p><u>(a) may not cede or assume as reinsurance any risk other than what is expressly permitted under this Subsection (4);</u></p> <p><u>(b) may cede or assume risk as reinsurance as provided in Section 31A-37-303;</u></p> <p><u>(c) may insure as a reimbursement a limited layer or deductible of workers' compensation coverage as approved by the commissioner.</u></p>	
Line	Amendment text	Nature of change
	<p>31A-37-203</p> <p><u>(1) A captive insurance company may not adopt a name that is:</u></p> <p><u>(1a) the same as any other existing business name registered in this state;</u></p> <p><u>(2b) deceptively similar to any other existing business name registered in this state; or</u></p> <p><u>(3c) likely to be:</u></p>	<p><i>Change of policy:</i> Makes captive insurers subject to the name requirements applicable to all other insurers.</p>

	<p>(ai) confused with any other existing business name registered in this state; or</p> <p>(bii) mistaken for any other existing business name registered in this state.</p> <p><u>(2) The name of a captive insurance company shall comply with Sections 16-10a-401 and 31A-1-109 and the name of any new or renamed captive insurance company shall include the word "insurance" or a term of equivalent meaning.</u></p>	
Line	Amendment text	Nature of change
	<p>31A-37-301 Incorporation—OrganizationFormation.</p> <p>(1) A pure captive insurance company or a sponsored, other than a branch captive insurance company, formed as a stock insurer shall be incorporated as a stock insurer with the capital of the pure captive insurance company or sponsored captive insurance companymay be formed as any of the following types of organizations in this state:</p> <p>(a) divided into shares; and a corporation; or</p> <p>(b) held by the stockholders of the pure captive insurance company or sponsored captive insurance company. a limited liability company.</p> <p><u>(2) The capital of a captive insurance company organization shall be held by the interest holders of the captive insurance company.</u></p> <p>(2) A pure captive insurance company or a sponsored captive insurance company formed as a limited liability company shall be organized as a members' interest insurer with the capital of the pure captive insurance company or sponsored captive insurance company:</p> <p>(a) divided into interests; and</p> <p>(b) held by the members of the pure captive insurance company or sponsored captive insurance company.</p> <p>(3) An association captive insurance company or an industrial insured captive insurance company may be:</p> <p>(a) incorporated as a stock insurer with the capital of the association captive insurance company or industrial insured captive insurance</p>	<p>Codifies practice: This section represents the Department's effort to consolidate the provisions that separately govern corporations and LLCs.</p>

	<p>company:</p> <ul style="list-style-type: none"> (i) divided into shares; and (ii) held by the stockholders of the association captive insurance company or industrial insured captive insurance company; <p>(b) incorporated as a mutual insurer without capital stock, with a governing body elected by the member organizations of the association captive insurance company or industrial insured captive insurance company; or</p> <p>(c) organized as a limited liability company with the capital of the association captive insurance company or industrial insured captive insurance company:</p> <ul style="list-style-type: none"> (i) divided into interests; and (ii) held by the members of the association captive insurance company or industrial insured captive insurance company. <p>(43) A captive insurance company formed as a corporation may not have fewer than three incorporators in this state shall have one or more <u>separate natural individuals as establishers of the organization, at least one of whom</u> shall be a resident of this state.</p> <p>(5) A captive insurance company formed as a limited liability company may not have fewer than three organizers of whom one shall be a resident of this state.</p> <p>(64)(a) Before a captive insurance company formed as a corporation files the corporation's articles of incorporation with the Division of Corporations and Commercial Code, the incorporators shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed corporation will promote the general good of the state. <u>The establishers of the applicant captive insurance company shall obtain from the commissioner a certificate of public good before filing its organizational charter with the Division of Corporations and Commercial Code.</u></p> <p>(b) In considering a request for a certificate under Subsection (64)(a),</p>	
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	<p>the commissioner shall consider:</p> <ul style="list-style-type: none"> (i) the character, reputation, financial standing, and purposes of the <u>incorporators</u> <u>establishers</u>; (ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the <u>principal</u> officers and <u>directors</u> <u>the members of the governing body</u>; (iii) any information in: <ul style="list-style-type: none"> (A) the application for a certificate of authority; or (B) the department's files; and (iv) other aspects that the commissioner considers advisable. <p>(7)(a) Before a captive insurance company formed as a limited liability company files the limited liability company's certificate of organization with the Division of Corporations and Commercial Code, the limited liability company shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed limited liability company will promote the general good of the state.</p> <p>(b) In considering a request for a certificate under Subsection (7)(a), the commissioner shall consider:</p> <ul style="list-style-type: none"> (i) the character, reputation, financial standing, and purposes of the organizers; (ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the managers; (iii) any information in: <ul style="list-style-type: none"> (A) the application for a certificate of authority; or (B) the department's files; and (iv) other aspects that the commissioner considers advisable. <p>(8)(a) A captive insurance company formed as a corporation shall file with the Division of Corporations and Commercial Code:</p> <ul style="list-style-type: none"> (i) the captive insurance company's articles of incorporation; (ii) the certificate issued pursuant to Subsection (64); and (iii) the fees required by the Division of Corporations and Commercial 	
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	<p>Code.</p> <p>(b) The Division of Corporations and Commercial Code shall file both the articles of incorporation and the certificate described in Subsection (6) for a captive insurance company that complies with this section.</p> <p>(9)(a) A captive insurance company formed as a limited liability company shall file with the Division of Corporations and Commercial Code:</p> <ul style="list-style-type: none"> (i) the captive insurance company's certificate of organization; (ii) the certificate issued pursuant to Subsection (7); and (iii) the fees required by the Division of Corporations and Commercial Code. <p>(b) The Division of Corporations and Commercial Code shall file both the certificate of organization and the certificate described in Subsection (7) for a captive insurance company that complies with this section.</p> <p>(10)(a) The organizers of a captive insurance company formed as a reciprocal insurer shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed association will promote the general good of the state.</p> <p>(b) In considering a request for a certificate under Subsection (10)(a), the commissioner shall consider:</p> <ul style="list-style-type: none"> (i) the character, reputation, financial standing, and purposes of the incorporators; (ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors; (iii) any information in: <ul style="list-style-type: none"> (A) the application for a certificate of authority; or (B) the department's files; and (iv) other aspects that the commissioner considers advisable. <p>(11)(a) An alien captive insurance company that has received a certificate of authority to act as a branch captive insurance company shall obtain from the commissioner a certificate finding that:</p> <ul style="list-style-type: none"> (i) the home jurisdiction of the alien captive insurance company 	
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	<p>imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that state; and</p> <p>(ii) after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, and other relevant information, the establishment and maintenance of the branch operations will promote the general good of the state.</p> <p>(b) After the commissioner issues a certificate under Subsection (11)(a) to an alien captive insurance company, the alien captive insurance company may register to do business in this state.</p> <p>(125) At least one of the members of the board of directors of a captive insurance company formed as a corporation shall be a resident of this state.</p> <p><u>(a) The governing body of a captive insurance company shall, except as otherwise permitted by Title 31A, consist of not fewer than three separate natural individuals as members.</u></p> <p><u>(b) At least one member of the governing body shall be a resident of this state.</u></p> <p><u>(c) A quorum of the governing body shall consist of at least one-third of the members of the governing body.</u></p> <p>(136) At least one of the managers of a limited liability company shall be a resident of this state. <u>A captive insurance company shall have no fewer than three separate natural individuals as principal officers with duties comparable to those of president, treasurer, and secretary.</u></p> <p>(147)(a) A captive insurance company formed as a corporation under this chapter has the privileges and is subject to the provisions of the general corporation law as well as the applicable provisions contained in this chapter under Title 16 is subject to Title 16 and the provisions of that as this chapter. In the event of a conflict between that provisions of Title 16 and this chapter, this chapter shall control.</p>	
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	<p>(b) If a conflict exists between a provision of the general corporation law and a provision of this chapter, this chapter shall control.</p> <p>(b) A captive insurance company formed under Title 48 is governed by the provisions of that Title and this chapter. In the event of a conflict between the provisions of Title 48 and this chapter, this chapter shall control.</p> <p>(c) Except as provided in Subsection (147)(d), the provisions of this title pertaining to a that govern mergers, consolidations, conversions, mutualization, and redomestication apply in determining the procedures to be followed by to a captive insurance company in carrying out any of the transactions described in those provisions.</p> <p>(d) Notwithstanding Subsection (147)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.</p> <p>(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.</p> <p>(15)(a) A captive insurance company formed as a limited liability company under this chapter has the privileges and is subject to Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as well as the applicable provisions in this chapter.</p> <p>(b) If a conflict exists between a provision of the limited liability company law and a provision of this chapter, this chapter controls.</p> <p>(c) The provisions of this title pertaining to a merger, consolidation, conversion, mutualization, and redomestication apply in determining the procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions.</p> <p>(d) Notwithstanding Subsection (15)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.</p> <p>(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.</p>	
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	<p>(16) (a) The articles of incorporation or bylaws of a captive insurance company formed as a corporation may not authorize a quorum of a board of directors to consist of fewer than one third of the fixed or prescribed number of directors as provided in Section 16-10a-824.</p> <p>(b) The certificate of organization of a captive insurance company formed as a limited liability company may not authorize a quorum of a board of managers to consist of fewer than one third of the fixed or prescribed number of directors required in Section 16-10a-824.</p>	
Line	Amendment text	Nature of change
	<p>31A-37-401 Sponsored captive insurance companies -- Formation.</p> <p>(1) One or more sponsors may form a sponsored captive insurance company under this chapter.</p> <p>(2) A sponsored captive insurance company formed under this chapter may establish and maintain a protected cell to insure risks of a participant if:</p> <p>(a) the shareholders <u>interest holders</u> of a sponsored captive insurance company are limited to:</p> <p>(i) the participants of the sponsored captive insurance company; and</p> <p>(ii) the sponsors of the sponsored captive insurance company;</p> <p>(b) each protected cell is accounted for separately on the books and records of the sponsored cell captive insurance company to reflect:</p> <p>(i) the financial condition of each individual protected cell;</p> <p>(ii) the results of operations of each individual protected cell;</p> <p>(iii) the net income or loss of each individual protected cell;</p> <p>(iv) the dividends or other distributions to participants of each individual protected cell; and</p> <p>(v) other factors that may be:</p> <p>(A) provided in the participant contract; or</p> <p>(B) required by the commissioner;</p>	<p><i>Codifies practice:</i> This section represents the Department's effort to consolidate the provisions that separately govern corporations and LLCs.</p>

	<p>(c) the assets of a protected cell are not chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;</p> <p>(d) a sale, exchange, or other transfer of assets is not made by the sponsored captive insurance company between or among any of the protected cell of the sponsored captive insurance company without the consent of the protected cell;</p> <p>(e) a sale, exchange, transfer of assets, dividend, or distribution is not made from a protected cell to a sponsor or participant without the commissioner's approval, which may not be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a protected cell;</p> <p>(f) a sponsored captive insurance company annually files with the commissioner financial reports the commissioner requires under Section 31A-37-106, including accounting statements detailing the financial experience of each protected cell;</p> <p>(g) a sponsored captive insurance company notifies the commissioner in writing within 10 business days of a protected cell that is insolvent or otherwise unable to meet the claim or expense obligations of the protected cell;</p> <p>(h) a participant contract does not take effect without the commissioner's prior written approval;</p> <p>(i) the addition of each new protected cell and withdrawal of a participant of any existing protected cell does not take effect without the commissioner's prior written approval; and</p> <p>(j)(i) a protected cell captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:</p> <p style="padding-left: 40px;">(A) a fee for examining, investigating, and processing by a department employee of an application for a certificate of authority made by a protected cell captive insurance company;</p>	
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	<p>(B) a fee for obtaining a certificate of authority for the year the protected cell captive insurance company is issued a certificate of authority by the department; and</p> <p>(C) a certificate of authority renewal fee; and</p> <p>(ii) a protected cell may be created by the sponsor or the sponsor may create a pooling insurance arrangement to provide for pooling of risks to allow for risk distribution upon written approval from every protected cell under the sponsor and written approval of the commissioner.</p>	
Line	Amendment text	Nature of change
	<p>31A-37-501</p> <p>(1) A captive insurance company is not required to make a report except those provided in this chapter.</p> <p>(2)(a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of one <u>at least two</u> of the executive officers of the captive insurance company, <u>each of whom is a separate natural person</u>.</p> <p>(b) Except as provided in Section 31A-37-204, a captive insurance company shall report:</p> <p>(i) using generally accepted accounting principles, except to the extent that the commissioner requires, approves, or accepts the use of a statutory accounting principle;</p> <p>(ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and</p> <p>(iii) supplemental or additional information required by the commissioner.</p> <p>(c) Except as otherwise provided:</p>	<p>Policy change: By requiring two officers to verify financial information, the amendment makes that information more trustworthy.</p>

	<p>(i) a licensed captive insurance company shall file the report required by Section 31A-4-113; and</p> <p>(ii) an industrial insured group shall comply with Section 31A-4-113.5.</p> <p>(3)(a) A pure-captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal year of the parent company of the pure captive insurance company.</p> <p>(b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.</p> <p>(4)(a) Sixty days after the fiscal year end, a branch captive insurance company shall file with the commissioner a copy of the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.</p> <p>(b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien or foreign jurisdiction.</p> <p>(c) A waiver by the commissioner under Subsection (4)(b):</p> <p>(i) shall be in writing; and</p> <p>(ii) is subject to public inspection.</p> <p>(5) Before March 1 of each year, a sponsored-cell captive insurance company shall submit to the commissioner a consolidated report of the financial condition of each individual protected cell, including a financial statement for each protected cell.</p> <p><u>(6) In the event of any material change to the report of financial condition filed in accordance with this section, or any adverse material change in the</u></p>	
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	financial condition of a captive insurance company, the captive insurance company shall notify the commissioner in writing of any such change within 20 business days thereof.	Policy change: Requires captive insurers to self-report financial problems to the Department.
Line	Amendment text	Nature of change
	<p>31A-37-503</p> <p>(1) The following shall be classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act:</p> <ul style="list-style-type: none"> (a) examination, <u>analysis, and licensing application</u> reports under this section <u>chapter</u>; (b) preliminary examination, <u>analysis, and licensing application</u> reports or results under this section <u>chapter</u>; (c) working papers for an examination, <u>analysis, and licensing application review</u> conducted under this section <u>chapter</u>; (d) recorded information for an examination, <u>analysis, and licensing application review</u> conducted under this section <u>chapter</u>; and (e) documents and copies of documents produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination, <u>analysis, and licensing application review</u> conducted under this section <u>chapter</u>. <p>(2) This section does not prevent the commissioner from using the information provided under this section in furtherance of the commissioner's regulatory authority under this title.</p> <p>(3) Notwithstanding other provisions of this section, the commissioner may grant access to the information provided under this section to:</p> <ul style="list-style-type: none"> (a) public officers having jurisdiction over the regulation of insurance in any other state or country; or (b) law enforcement officers of this state or any other state or agency of the federal government, if the officers receiving the information agree in writing to hold the information in a manner consistent with this section. 	<p>Policy change: Expands confidentiality of captive insurer's financial information and the Department's analyses of that information. Without this express protection, captives are reticent to produce accurate information that's necessary for proper regulation.</p>

Line	Amendment text	Nature of change
	<p><u>Part 7</u></p> <p><u>Dormancy</u></p> <p><u>31A-37-701 Certificate of dormancy.</u></p> <p><u>(1) A captive insurance company, other than a risk retention group, that meets the requirements of Subsection (2) may apply, without fee, to the commissioner for a certificate of dormancy.</u></p> <p><u>(2) to be considered for a certificate of dormancy, a captive insurance company must demonstrate that it has:</u></p> <p><u>(a) ceased transacting the business of insurance, including the issuance of insurance policies;</u></p> <p><u>(b) no remaining insurance liabilities or obligations associated with insurance business transactions or insurance policies issued prior to the filing of its application for a certificate of dormancy under this section; and</u></p> <p><u>(3) In determining whether the requirements of Subsection (2)(b) are met, the commissioner may elect not to consider liabilities or obligations for which sufficient funds have been withheld by the ceding insurer or are otherwise sufficiently secured.</u></p> <p><u>(4) A captive insurance company holding a certificate of dormancy is subject to all requirements of this chapter.</u></p> <p><u>(5) Notwithstanding Subsection (4), a captive insurance company holding a certificate of dormancy:</u></p> <p><u>(a) may possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus of:</u></p> <p><u>(i) in the case of a pure captive insurance company, not less than \$25,000;</u></p> <p><u>(ii) in the case of an association captive insurance company, not less than \$75,000;</u></p> <p><u>(iii) in the case of a sponsored captive insurance company, not less than \$100,000, of which a minimum of \$35,000 is provided by the sponsor; or</u></p>	<p><i>Policy change:</i> A certificate of dormancy allows a captive insurer to remain in existence without conducting business. Many other states provide something similar. Utah needs this provision to maintain its position as a leader in the captive insurance industry.</p>

	<p><u>(iv) in the case of a special purpose captive insurance company, not less than \$25,000;</u></p> <p><u>(b) is not required to submit an annual audit or statement of actuarial opinion;</u></p> <p><u>(c) is not required to maintain an active agreement with an independent auditor or actuary; and</u></p> <p><u>(d) is not required to hold at least one annual meeting of the governing body in the State.</u></p> <p><u>(6) Notwithstanding Subsection (5)(b) the commissioner may, under Section 31A-37-106, require a captive insurance company holding a certificate of dormancy to submit an annual audit if there are concerns regarding the company's solvency or liquidity.</u></p> <p><u>(7) To maintain a certificate of dormancy, a captive insurance company must pay an annual dormancy renewal fee, in lieu of the annual license renewal fee, by July 1 of each year.</u></p> <p><u>(8) The dormancy renewal fee shall be fifty percent of the captive insurance company's annual license renewal fee.</u></p> <p><u>(9) A certificate of dormancy may not be consecutively renewed beyond a five-year period that begins the July 1 after initial issuance of the certificate of dormancy.</u></p>	
Line	Amendment text	Nature of change
	<p><u>31A-37-702 Cancelling a certificate of dormancy.</u></p> <p><u>(1) A captive insurance company may apply to cancel its certificate of dormancy by following the procedures in Part 2 of this Chapter.</u></p> <p><u>(2) Notwithstanding Subsection (1), the commissioner may relieve an applicant of complying with a requirement in Part 2 of this Chapter for good cause shown.</u></p>	<p><i>Policy change:</i> A certificate of dormancy allows a captive insurer to remain in existence without conducting business. Many other states provide something similar. Utah needs this provision to maintain its position as a leader in the captive insurance industry.</p>
Line	Amendment text	Nature of change

	<p>31A-45-102.</p> <p>As used in this chapter:</p> <p>(1) "Covered benefit" or "benefit" means the health care services to which a covered person is entitled under the terms of a health benefit-care <u>insurance plan offered by a managed care organization</u>.</p> <p>(2) "Managed care organization" means:</p> <p>(a) a managed care organization as that term is defined in Section 31A-1-301; and</p> <p>(b) a third party administrator as that term is defined in Section 31A-1-301.</p>	<p>Technical change: Clarification covered benefit is not limited to a health benefit plan, but includes health care insurance plans offered by a managed care organization. The change is a clean-up item related to HB336, Health Reform Amendments, passed during the 2017 General Session.</p>
Line	Amendment text	Nature of change
	<p>31A-45-303</p> <p>(1) Managed care organizations may provide for enrollees to receive services or reimbursement under the health benefit plans in accordance with this section.</p>	<p>Technical change: Clarification covered benefit is not limited to a health benefit plan, but includes health care insurance plans offered by a managed care organization. The change is a clean-up item related to HB336, Health Reform Amendments, passed during the 2017 General Session.</p>
Line	Amendment text	Nature of change
	<p>31A-45-401.</p> <p>(1)(a) The requirements of Subsection (2) apply to a managed care organization if the managed care organization health benefit plan:</p> <p>(i) restricts coverage for nonemergency services to services provided by contracted providers within the organization's service area; and</p> <p>(ii) does not offer a benefit that permits members the option of obtaining covered services from a non-network provider.</p> <p>(b) The requirements of Subsection (2) do not apply to a managed care organization if:</p> <p>(i) the child that is the no longer the subject of a court or administrative support order is over the age of 18 and is no longer enrolled</p>	<p>Codifying Existing Practice: Clarifies coverage limitations is based on a court order, rather than the child's age and high school enrollment status.</p>

	<p>in high school; or</p> <p>(ii) a parent's employer offers the parent a choice to select health insurance coverage that is not a managed care organization plan either at the time of the court or administrative support order, or at a subsequent open enrollment period. This exemption from Subsection (2) applies even if the parent ultimately chooses the managed care organization plan.</p> <p>(2) If a parent is required by a court or administrative support order to provide health insurance coverage for a child who resides outside of a managed care organization's service area, the managed care organization shall:</p> <p>(a) comply with the provisions of Section 31A-22-610.5;</p> <p>(b) allow the enrollee parent to enroll the child on the organization plan;</p> <p>(c) pay for otherwise covered health care services rendered to the child outside of the service area by a non-network provider:</p> <p>(i) if the child, noncustodial parent, or custodial parent has complied with prior authorization or utilization review otherwise required by the organization; and</p> <p>(ii) in an amount equal to the dollar amount the organization pays under a noncapitated arrangement for comparable services to a network provider in the same class of health care providers as the provider who rendered the services; and</p> <p>(d) make payments on claims submitted in accordance with Subsection (2)(c) directly to the provider, custodial parent, the child who obtained benefits, or state Medicaid agency.</p> <p>(3)(a) The parents of the child who is the subject of the court or administrative support order are responsible for any charges billed by the provider in excess of those paid by the organization.</p> <p>(b) This section does not affect any court or administrative order regarding the responsibilities between the parents to pay any medical expenses not covered by accident and health insurance or a managed care</p>	
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	organization plan. (4) The commissioner shall adopt rules as necessary to administer this section and Section 31A-22-610.5.	
Line	Amendment text	Nature of change
	34A-2-110 (7) In an action involving workers' compensation, this chapter supersedes Title 31A, Chapter 31, Insurance Fraud Act. <u>Nothing in this section prohibits the Utah Insurance Department from investigating violations of this Section or from pursuing civil and criminal penalties based on those violations pursuant to Section 31A-31-109 and this Title.</u>	<i>Codifies practice:</i> This amendment confirms the department's current practice of enforcing 34A-2-110.
Lines	Amendment text	Nature of change
	76-6-521 (1) A person commits a fraudulent insurance act if that person with intent to defraud: (a) presents or causes to be presented any oral or written statement or representation knowing that the statement or representation contains false or fraudulent information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract; (i) <u>as part of or in support of obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to that person or entity;</u> (ii) <u>as part of or in support of a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to that person or entity; or</u> (iii) <u>as part of or in support of a scheme or artifice to file an insurance claim for a loss that has already occurred;</u> (b) presents, or causes to be presented, any oral or written statement or representation:	<i>Policy change:</i> The changes are needed to address: (a) new developments in the kinds of fraud being committed in applying for insurance or insurance benefits; and (b) the increase in the loss values involved in those new kinds of fraud.

<p>(i)(A) As part of or in support of a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or (B) In connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and</p> <p>(ii) Knowing that the statement or representation contains false, <u>incomplete</u>, or fraudulent information concerning any fact or thing material to the claim;</p> <p>(c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;</p> <p>(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;</p> <p>(e) knowingly employs, uses, or acts as a runner, as defined in Section 31A-31-102, for the purpose of committing a fraudulent insurance act;</p> <p>(f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act; or</p> <p>(g) knowingly supplies false or fraudulent material information in any document or statement required by the Department of Insurance; <u>or</u></p> <p><u>(h) knowingly fails to forward premium to an insurer in violation of Section 31A-23a-411.1.</u></p> <p>(2)(a) A violation of Subsection (1)(a)(<u>i</u>) is a class B <u>A</u> misdemeanor.</p>	<p>Technical change: Adds to the Criminal Code's insurance anti-fraud statute a provision from the Insurance Code's anti-fraud statute (31A-31-103(1)(f)).</p>
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<p>(b) A violation of Subsections <u>(1)(a)(ii) and (1)(b) through (1)(gh)</u> is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.</p> <p><u>(c) A violation of Subsection (1)(a)(iii) is a class A misdemeanor where the amount of loss cannot to be determined.</u></p> <p>(d) A violation of Subsections (1)(b) through (1)(g) is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.</p> <p>(3) A corporation or association is guilty of the offense of insurance fraud under the same conditions as those set forth in Section 76-2-204.</p> <p>(4) The determination of the degree of any offense under Subsections <u>(1)(a)(ii) and (1)(b) through (1)(gh)</u> shall be measured by the total value of all property, money, or other things obtained or sought to be obtained by the fraudulent insurance act or acts described in Subsections <u>(1)(a)(ii) and (1)(b) through (1)(g)</u>.</p>	<p>Policy change: The change is needed to address: (a) new developments in the kinds of fraud being committed in applying for insurance or insurance benefits; and (b) the increase in the loss values involved in those new kinds of fraud.</p>
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